

BILL ANALYSIS

Senate Research Center

S.B. 8
By: Birdwell
Border Security
6/2/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The federal government's failure to secure the border has led to a humanitarian crisis at the southern border with residents, businesses, and law enforcement facing significant challenges and dangerous situations everyday. However, the impact of the border crisis has advanced beyond just the border counties and is impacting communities throughout Texas.

Operation Lone Star has shed light on the record number of illegal immigrants and the increased smuggling of humans, drugs, and weapons plaguing our state and nation. Despite the state's constant efforts, which includes the seizure of enough fentanyl to kill every man, woman, and child in America, Texas continues to fight this unprecedented threat at the southern border. Nevertheless, Texas will continue to find new ways to combat the devastation caused by the border crisis.

S.B. 8 aims to provide the resources the State needs in order to enhance border security operations, provide more tools to law enforcement and prosecutors, and increase the safety of the border region in Texas.

As proposed, S.B. 8 amends current law relating to measures to address public safety threats in this state presented by transnational criminal activity, including by establishing a Texas Border Force and making funds available to certain governmental entities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

ARTICLE 1. TEXAS BORDER FORCE; DEPARTMENT OF PUBLIC SAFETY BORDER SECURITY FUNCTIONS

SECTION 1.01. Amends Section 411.0043, Government Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires the Public Safety Commission to implement a policy requiring the Department of Public Safety of the State of Texas (DPS) to use appropriate technological solutions to improve DPS's ability to perform its functions. Requires that the policy ensure that DPS's capability to conduct border security operations and similar functions is not impeded by the use of obsolete or outdated technologies. Makes nonsubstantive changes.

(c) Requires DPS to periodically review emerging technologies that may be deployed for border security operations, including technologies and equipment described by Section 411.0285, to ensure DPS consistently adopts innovative technologies and solutions for those operations.

SECTION 1.02. Amends Chapter 411, Government Code, by adding Subchapter B-2, as follows:

SUBCHAPTER B-2. TEXAS BORDER FORCE

Sec. 411.0281. DEFINITION. Defines "border force."

Sec. 411.0282. TEXAS BORDER FORCE; CHIEF. (a) Provides that the Texas Border Force is established in the Texas Rangers division of DPS.

(b) Provides that the chief of the Texas Rangers is the chief of the border force.

Sec. 411.0283. BORDER OPERATIONS. (a) Authorizes the border force to conduct border security operations along the Texas-Mexico border, including:

- (1) law enforcement operations;
- (2) intelligence gathering, analysis, and dissemination;
- (3) coordination and command of state agencies in border security operations led by the border force;
- (4) surveillance and detection of criminal activity, including improper entry of individuals from foreign nations and the smuggling of individuals and controlled substances, using cameras, unmanned aircraft, and other technologies;
- (5) interdiction of individuals committing criminal activity described by Subdivision (4);
- (6) coordination of local, state, and federal agencies conducting border security operations, including tactical operations such as special response teams, brush teams, and special weapons and tactics teams; and
- (7) training and education programs for the professional development of employees and agency partners carrying out border security operations.

(b) Authorizes only commissioned officers of the border force to carry out the duties assigned to a commissioned peace officer. Authorizes an employee of the border force who is not a commissioned peace officer to:

- (1) act in support of a commissioned peace officer; and
- (2) engage in support and infrastructure operations of the border force.

Sec. 411.0284. ASSIGNMENT OF TEXAS MILITARY FORCES SERVICE MEMBERS. (a) Defines "Texas military forces."

(b) Authorizes DPS, at the request of the chief of the border force, to enter into a written agreement with the Texas Military Department (TMD) for the assignment of service members of the Texas military forces to the border force. Authorizes the agreement to provide for reimbursement by DPS for hiring, training, salary, and employee benefit costs incurred by the Texas military forces in connection with service members assigned to the border force.

Sec. 411.0285. PURCHASE AND DEPLOYMENT OF CERTAIN TECHNOLOGY AND EQUIPMENT. (a) Requires DPS, at the request of the chief of the border force, to purchase and deploy technology and equipment to enhance the border force's ability to detect and suppress criminal activity along the Texas-Mexico border, including:

- (1) stacked razor wire barriers;
- (2) buoy barriers; and

(3) surveillance and detection technology to be deployed at and near each port of entry along the Texas-Mexico border to detect and deter the improper entry of individuals from foreign nations and the smuggling of individuals and controlled substances, such as fentanyl, cocaine, heroin, and methamphetamine.

(b) Authorizes the surveillance and detection technology described by Subsection (a)(3) to be used to inspect passenger and commercial vehicles passing through a port of entry or traveling in any direction within 30 miles of a port of entry.

(c) Requires DPS to employ a sufficient number of commercial vehicle inspectors to inspect vehicles using technology described by Subsection (a)(3).

(d) Provides that funds used to purchase technology and equipment described by Subsection (a) are considered funds expended for border security for purposes of reporting requirements in the General Appropriations Act, and the Legislative Budget Board is authorized to prescribe the form and manner of reporting the relevant budgeted and expended amounts and performance indicator results.

Sec. 411.0286. **HIRING OFFICERS WITH PREVIOUS BORDER PATROL OR MILITARY EXPERIENCE.** Authorizes DPS, notwithstanding any other provision of law, at the time an officer is hired for the border force, to elect to credit up to four years of experience as a Border Patrol Agent of the United States Customs and Border Protection or a member of the armed forces of the United States for the purpose of calculating the officer's salary under Schedule C. Provides that all officers are subject to a one-year probationary period under Section 411.007(g) (relating to providing that a noncommissioned employee inducted into the service of DPS is on probation for the first one year of service, and an officer is on probation from the date the officer is inducted into the service of DPS until the anniversary of the date the officer is commissioned) notwithstanding the officer's rank or salary classification.

Sec. 411.0287. **INCREASED STAFFING; CERTAIN TRAINING.** (a) Authorizes the border force, as necessary, to conduct border security operations and ensure the safety of the public along the Texas-Mexico border:

(1) recruit, employ, and train officers and other staff; and

(2) contract for additional officers and staff to meet an increased need for border security operations.

(b) Requires the border force to expand programs for training officers to serve as members of a brush team.

Sec. 411.0288. **REPORTS.** Requires the chief of the border force, at least once each calendar quarter and at other times determined necessary by the governor or the chief of the border force, to submit a report to the governor containing information requested by the governor concerning the border force's operations.

Sec. 411.0289. **NO LIMITATION ON BORDER FORCE AUTHORITY BY LOCAL GOVERNMENTS.** Prohibits a political subdivision, including a municipality, county, or special purpose district, from by any means limiting the jurisdiction or authority of the border force.

SECTION 1.03. Amends Subchapter C, Chapter 2155, Government Code, by adding Section 2155.151, as follows:

Sec. 2155.151. **CERTAIN PURCHASES BY DEPARTMENT OF PUBLIC SAFETY.**

(a) Provides that DPS is delegated all purchasing functions relating to the purchase of technologies and equipment for use in border security operations, including technology

and equipment described by Section 411.0285, to ensure DPS consistently adopts innovative technologies and solutions for those operations.

(b) Requires DPS to acquire goods and services under Subsection (a) by any procurement method that provides the best value to DPS. Requires DPS to consider the best value standards listed in Section 2155.074 (Best Value Standard for Purchase of Goods or Services).

(c) Requires the Comptroller of Public Accounts of the State of Texas (comptroller) or the Department of Information Resources (DIR), at the request of DPS, as appropriate, to procure goods and services described by Subsection (a) for DPS. Authorizes DPS to use the services of the comptroller or DIR in procuring goods and services described by Subsection (a).

SECTION 1.04. (a) Requires DPS, in reviewing emerging technologies under Section 411.0043(c), Government Code, as added by this article, to hold a technology fair at which vendors of emerging technology that is authorized to be used for conducting border security operations demonstrate the capabilities of the products.

(b) Requires that the event required by Subsection (a) of this section be held not later than September 1, 2024.

ARTICLE 2. INTERAGENCY WORK GROUP ON BORDER ISSUES

SECTION 2.01. Amends Sections 772.011(a) and (b), Government Code, as follows:

(a) Provides that an interagency work group is created to:

(1)-(3) makes nonsubstantive changes;

(4) identify and anticipate challenges and threats to agencies' operations along the Texas-Mexico border;

(5) develop solutions to overcome the challenges and threats described by Subdivision (4); and

(6) identify strategic opportunities agencies may use to enhance the capabilities and effectiveness of their roles in this state's operations along the Texas-Mexico border.

(b) Provides that the work group is composed of:

(1) the chair of the standing substantive committee of the senate with primary jurisdiction over border security, or the chair's designee;

(2) the chair of the standing substantive committee of the house of representatives with primary jurisdiction over border security, or the chair's designee; and

(3) the heads of certain agencies or their designees, including the Texas Division of Emergency Management, the Texas Alcoholic Beverage Commission, and TMD.

ARTICLE 3. FINANCIAL ASSISTANCE FOR INFRASTRUCTURE, FACILITIES, EQUIPMENT, AND SERVICES IN THE BORDER REGION

SECTION 3.01. Amends Chapter 421, Government Code, by adding Subchapter G, as follows:

SUBCHAPTER G. USE OF FUNDS FOR BORDER PROTECTION AND PUBLIC SAFETY

Sec. 421.111. DEFINITIONS. Defines "border region," "local government," and "office."

Sec. 421.112. USE OF CERTAIN FUNDS. Requires the office of the governor (office), from money appropriated for that purpose, as authorized by Chapter 418 (Emergency Management), including Subchapter D (Finance) of that chapter, to make funds available to state agencies and local governments for the following purposes:

- (1) the construction and maintenance of facilities related to prosecuting and adjudicating offenses committed in the border region, including court facilities, processing facilities, detention facilities, criminal justice centers, and other similar facilities;
- (2) the construction of improvements to an area in the immediate vicinity of a port of entry to enhance vehicle inspection capabilities and assist in the investigation, interdiction, and prosecution of persons smuggling individuals or contraband across the Texas-Mexico border;
- (3) the payment of staff salaries and benefits and the payment of operational expenses related to providing law enforcement services, emergency services, detention services, and court administration services;
- (4) the construction and maintenance of temporary border security infrastructure, including temporary walls, barriers, fences, wires, trenches, surveillance technology, or other improvements, designed or adapted to surveil or impede the movement of persons or objects across the Texas-Mexico border at locations other than ports of entry; and
- (5) any other activity that the office determines necessary to address offenses that are committed in the border region or are related to transnational criminal activity.

Sec. 421.113. ADMINISTRATIVE COSTS. Authorizes the office, unless otherwise provided by the appropriation, to use a reasonable amount, not to exceed five percent, of any funds appropriated for purposes of this subchapter to pay the costs of administering this subchapter.

ARTICLE 4. BORDER PROTECTION AGREEMENTS

SECTION 4.01. Amends Title 7, Government Code, by adding Chapter 795, as follows:

CHAPTER 795. BORDER PROTECTION AGREEMENTS WITH UNITED MEXICAN STATES

Sec. 795.001. AUTHORITY FOR AGREEMENTS. Authorizes the governor, on behalf of this state, to coordinate, develop, and execute agreements with the United Mexican States and the states of the United Mexican States regarding the authority of this state to protect and defend its citizens.

ARTICLE 5. SEVERABILITY; EFFECTIVE DATE

SECTION 5.01. Severability clause.

SECTION 5.02. Effective date: the 91st day after the last day of the legislative session.