BACKGROUND AND PURPOSE

In 1975, Texas adopted the Example State Disaster Act as proposed by the Council of State Governments. The Texas Disaster Act of 1975, as it came to be known, is currently located in Chapter 418, Government Code. Chapter 433 predates that act and provides a body of law designed for emergencies.

The governor is currently allowed to exercise exclusive and absolute discretion on convening the legislature outside of its regular session. In addition, the governor opted to direct the COVID-19 response within the executive branch, rather than convening a special session of the legislature to provide for a legislative response. The Texas Disaster Act of 1975 was designed to empower the executive branch to oversee an unencumbered, uniform response to potential threats facing Texas. However, that law was also intended to engage the legislative branch as a check to this power—a check that has been underused.

S.J.R. 58 seeks to propose a constitutional amendment to rebalance the legislative and executive roles in times of disaster and emergency.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this resolution does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.J.R. 58 proposes an amendment to the Texas Constitution to set the maximum duration of a state of disaster or emergency declared by the governor at 30 days, unless renewed or extended by the legislature in special session, if the disaster or emergency meets one of the following criteria:
- exists in at least two-fifths of the counties in Texas;
- affects at least half of Texas' population according to the most recent federal decennial census; or
- affects at least two-thirds of the counties in each of three or more trauma service areas in Texas, as designated by the appropriate state agency.

The resolution provides for a maximum 90-day duration if the declared state of disaster or emergency is related to a nuclear or radiological event recognized by the federal agency with primary authority for federal response to that event, unless extended or renewed by the legislature.

S.J.R. 58 requires the governor to convene the legislature in special session when the governor proposes to renew an order or proclamation declaring an applicable state of disaster or emergency or issue a new order or proclamation regarding the same such state of disaster or emergency. The resolution authorizes the legislature, when convened in this special session, to take the following actions:

- renew or extend the state of disaster or emergency;
- respond to the state of disaster or emergency, including by enacting laws and adopting resolutions the legislature determines are related to the state of disaster or emergency and by exercising its constitutional authority to suspend state laws; and
- consider any other subject stated in the governor's proclamation convening the legislature.

The resolution establishes that a vote to modify or terminate the governor's proclamation or order declaring the state of disaster or emergency is not subject to constitutional provisions requiring governor approval or veto of orders, resolutions, or votes.

S.J.R. 58 grants a member of the legislature standing to participate as a party in a suit against the governor for a violation of the duty to convene the legislature for a special session as required under this resolution. The Texas Supreme Court has original jurisdiction of such a suit.

ELECTION DATE

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 7, 2023.

88R 31251-D   23.138.1886