

BILL ANALYSIS

Senate Research Center
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S.J.R. 58
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State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Disaster Act of 1975 contemplated a check on executive authority by stipulating that the legislative branch could end or amend a disaster declaration "at any time." This power-balancing provision is rendered inoperable when the Texas Legislature is out of session. S.J.R. 58 would give full effect to the legislative check originally envisioned in the Disaster Act. Specifically, the legislation would require the governor to call a special session if he or she desires to continue an emergency or disaster declaration past thirty days when the declaration impacts:

- half of the state's population;
- 2/5 of the state's counties (greater than 101); or
- 2/3 of the counties in 3 or more of the state's trauma service regions.

Notwithstanding the thresholds above, a disaster or emergency declaration linked to a nuclear or radiological event may persist for 90 days before requiring legislative input.

Once convened, the legislature may provide its advice and consent on any of the directives, orders, proclamations, and suspensions arising from a disaster or emergency. The legislature, in its prerogative, may also terminate or limit the disaster or emergency declaration. Legislative actions taken during a disaster/emergency special session are not subject to veto.

S.J.R. 58 also provides an enforcement mechanism to ensure that the special session occurs when appropriate. As proposed, the constitutional amendment gives the Texas Supreme Court original jurisdiction on questions of whether or not a special session should be called. Standing for this type of action against the executive branch is limited to sitting members of the legislature.

S.J.R. 58 proposes a constitutional amendment regarding the powers of the governor, the legislature, and the supreme court following certain disaster or emergency declarations

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 8, Article IV, Texas Constitution, by adding Subsections (c), (d), (e), (f), and (g), as follows:

(c) Requires the governor to convene the legislature in special session for the purposes described by Subsection (d) of Section 8 (Convening Legislature on Extraordinary Occasions) when the governor proposes to renew an order or proclamation declaring a state of disaster or emergency or issue a new order or proclamation regarding the same state of disaster or emergency that:

- (1) exists in at least two-fifths of the counties in this state;

(2) affects at least half of this state's population according to the most recent federal decennial census; or

(3) affects at least two-thirds of the counties in each of three or more trauma service areas in this state, as designated by the appropriate state agency.

(d) Authorizes the legislature, in a special session convened under Subsection (c) of this section, to:

(1) renew or extend the state of disaster or emergency;

(2) respond to the state of disaster or emergency, including by:

(A) enacting laws and adopting resolutions the legislature determines are related to the state of disaster or emergency; and

(B) exercising the powers reserved to the legislature under Section 28 (Suspension of Laws), Article I (Bill of Rights), of this constitution; and

(3) consider any other subject stated in the governor's proclamation convening the legislature.

(e) Prohibits a state of disaster or emergency declared by the governor that is subject to Subsection (c) of this section, except as provided by Subsection (f) of this section, from continuing for more than 30 days unless the legislature renews or extends the declared state of disaster or emergency under Subsection (d) of this section.

(f) Prohibits a state of disaster or emergency declared by the governor that is subject to Subsection (c) of this section and that is related to a nuclear or radiological event recognized by the federal agency with primary authority for federal response to that event from continuing for more than 90 days unless the legislature renews or extends the declared state of disaster or emergency under Subsection (d) of this section.

(g) Provides that a vote under Subsection (d) of this section to modify or terminate a proclamation or order issued by the governor declaring a state of disaster or emergency is not subject to Section 15 (Approval or Veto of Orders, Resolutions, or Votes) of Article IV (Executive Department).

SECTION 2. Amends Section 3, Article V, Texas Constitution, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires the Supreme Court of Texas (supreme court) and the justices thereof to have power to issue writs of habeas corpus, as are authorized to be prescribed by law, and provides that under such regulations as are authorized to be prescribed by law, the courts, rather than the said courts, and the justices thereof are authorized to issue the writs of mandamus, procedendo, certiorari and such other writs, as may be necessary to enforce its jurisdiction.

(a-1) Authorizes the legislature, except as provided by Subsection (a-2) of this section, to confer original jurisdiction on the supreme court to issue writs of quo warranto and mandamus in such cases as may be specified, except as against the governor, rather than the governor of the state.

(a-2) Provides that a member of the legislature has standing to participate as a party in a suit against the governor for a violation of the duty imposed by Section 8(c), Article IV, of this constitution. Provides that the supreme court has original jurisdiction of a suit described by this subsection.

SECTION 3. Requires that the proposed constitutional amendment be submitted to the voters at an election to be held November 7, 2023. Sets forth the required language of the ballot.