By:  Guillen, Raymond, Morales of Maverick, H.B. No. 3782

     Muñoz, Jr., Lopez of Cameron, et al.

A BILL TO BE ENTITLED

AN ACT

relating to establishing the Border Security Advisory Council and the Border Protection Task Force.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. BORDER SECURITY ADVISORY COUNCIL

SECTION 1.01.  Subchapter B-1, Chapter 421, Government Code, is amended by adding Section 421.0425 to read as follows:

Sec. 421.0425.  BORDER SECURITY ADVISORY COUNCIL. (a) The Border Security Advisory Council is a permanent special advisory committee created to advise the legislature and the governor or the governor's designee on homeland security issues impacting the security of the Texas-Mexico border and on streamlining statewide border security activities and initiatives.

(b)  The council is composed of:

(1)  the lieutenant governor;

(2)  the speaker of the house of representatives;

(3)  four senators appointed by the lieutenant governor who collectively meet the following requirements:

(A)  two senators must be members of the political party with the most members in the senate and two senators must be members of the political party with the second most members in the senate;

(B)  two senators must represent senatorial districts located in the border region; and

(C)  one senator must be the chair of the senate standing committee with primary jurisdiction over border security issues;

(4)  four members of the house of representatives appointed by the speaker of the house of representatives who collectively meet the following requirements:

(A)  two representatives must be members of the political party with the most members in the house and two representatives must be members of the political party with the second most members in the house;

(B)  two representatives must represent house districts located in the border region; and

(C)  one representative must be the chair of the house standing committee with primary jurisdiction over border security issues;

(5)  as nonvoting members, the executive head of or a designee from each of the following:

(A)  Department of Public Safety;

(B)  Texas Military Department;

(C)  Texas Division of Emergency Management;

(D)  Parks and Wildlife Department;

(E)  Texas Department of Criminal Justice; and

(F)  Office of Court Administration of the Texas Judicial System;

(6)  as a nonvoting member, the presiding officer of the border prosecution unit established under Section 772.052;

(7)  the following nonvoting members appointed by the governor or the governor's designee:

(A)  one representative of a county located in the border region, other than a sheriff;

(B)  one sheriff of a county located in the border region;

(C)  one representative of a municipality located in the border region, other than a municipal police chief;

(D)  one police chief of a municipality located in the border region; and

(E)  one representative of the business community involved in international trade across the Texas-Mexico border; and

(8)  other nonvoting members as determined by the governor or the governor's designee.

(c)  The lieutenant governor and the speaker of the house of representatives are joint chairs of the council.

(d)  A majority of the voting members of the council constitutes a quorum to transact business. If a quorum is present, the council may act on any matter within the council's jurisdiction by a majority vote.

(e)  The council shall meet as often as necessary to perform the council's duties. Meetings may be held at any time at the request of either chair.

(f)  As an exception to Chapter 551 and other law, for a meeting at which both joint chairs of the council are physically present, any number of the other council members may attend the meeting by use of telephone conference call, video conference call, or other similar technology. This subsection applies for purposes of establishing a quorum or voting or for any other purpose allowing the members to fully participate in any council meeting. This subsection applies without regard to the subject or topics considered by the members at the meeting.

(g)  A council meeting held by use of telephone conference call, video conference call, or other similar technology:

(1)  is subject to the notice requirements applicable to other meetings;

(2)  must specify in the notice of the meeting the location at which the joint chairs will be physically present;

(3)  must be open to the public and audible to the public at the location specified in the notice under Subdivision (2); and

(4)  must provide two-way audio communication between all council members attending the meeting during the entire meeting, and if the two-way audio communication link with any member attending the meeting is disrupted at any time, the meeting may not continue until the two-way audio communication link is reestablished.

(h)  In addition to the duties under Section 421.045, the council shall:

(1)  use statistical analyses and other research methods to conduct an in-depth examination of border safety initiatives and programs in this state that includes:

(A)  an assessment of the cost-effectiveness of the use of state and local funds in ensuring border safety;

(B)  an identification of critical border safety problems; and

(C)  a determination of the state's long-range border safety needs;

(2)  recommend to the legislature and the governor:

(A)  strategies to solve the problems identified under Subdivision (1)(B);

(B)  policy priorities to address the long-range needs determined under Subdivision (1)(C); and

(C)  measures based on objective research and analysis to help guide state border safety policies;

(3)  advise the legislature and the governor regarding:

(A)  coordinating the goals and responsibilities for border security efforts of local and state agencies with jurisdiction over border security;

(B)  developing procedures for streamlining decision-making of local and state agencies with jurisdiction over border security; and

(C)  improving transparency of border security operations; and

(4)  advise and assist the legislature and the governor in developing plans, programs, and proposed legislation to improve the effectiveness of border safety initiatives and programs.

(i)  The council may hire staff or may contract with universities or other suitable entities to assist the council in carrying out the council's duties. Funding to support the operation of the council shall be provided from funds appropriated to the Texas Legislative Council.

(j)  Not later than January 1 of each odd-numbered year, the council shall submit to the legislature and the governor a report that contains the recommendations described by Subsection (h)(2).

SECTION 1.02.  Section 421.044, Government Code, is amended to read as follows:

Sec. 421.044.  COMPENSATION AND REIMBURSEMENT OF EXPENSES PROHIBITED. (a) A person who is a member of a permanent special advisory committee created under this subchapter is not entitled to receive:

(1)  compensation from this state for service on the committee; or

(2)  except as provided by Subsection (b), travel expenses incurred by the person while conducting the business of the committee.

(b)  A member of the Border Security Advisory Council created under Section 421.0425 is entitled to travel expenses described by Subsection (a)(2) as provided by the General Appropriations Act.

ARTICLE 2. BORDER PROTECTION TASK FORCE

SECTION 2.01.  Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12.  WHO ARE PEACE OFFICERS. The following are peace officers:

(1)  sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2)  constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3)  marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4)  rangers, officers, and members of the reserve officer corps commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5)  investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

(6)  law enforcement agents of the Texas Alcoholic Beverage Commission;

(7)  each member of an arson investigating unit commissioned by a city, a county, or the state;

(8)  officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;

(9)  officers commissioned by the General Services Commission;

(10)  law enforcement officers commissioned by the Parks and Wildlife Commission;

(11)  officers commissioned under Chapter 23, Transportation Code;

(12)  municipal park and recreational patrolmen and security officers;

(13)  security officers and investigators commissioned as peace officers by the comptroller;

(14)  officers commissioned by a water control and improvement district under Section 49.216, Water Code;

(15)  officers commissioned by a board of trustees under Chapter 54, Transportation Code;

(16)  investigators commissioned by the Texas Medical Board;

(17)  officers commissioned by:

(A)  the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, the Bexar County Hospital District, or the El Paso County Hospital District under Section 281.057, Health and Safety Code;

(B)  the board of directors of the Ector County Hospital District under Section 1024.117, Special District Local Laws Code;

(C)  the board of directors of the Midland County Hospital District of Midland County, Texas, under Section 1061.121, Special District Local Laws Code; and

(D)  the board of hospital managers of the Lubbock County Hospital District of Lubbock County, Texas, under Section 1053.113, Special District Local Laws Code;

(18)  county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;

(19)  investigators employed by the Texas Racing Commission;

(20)  officers commissioned under Chapter 554, Occupations Code;

(21)  officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;

(22)  investigators commissioned by the attorney general under Section 402.009, Government Code;

(23)  security officers and investigators commissioned as peace officers under Chapter 466, Government Code;

(24)  officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;

(25)  officers commissioned by the state fire marshal under Chapter 417, Government Code;

(26)  an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;

(27)  apprehension specialists and inspectors general commissioned by the Texas Juvenile Justice Department as officers under Sections 242.102 and 243.052, Human Resources Code;

(28)  officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;

(29)  investigators commissioned by the Texas Commission on Law Enforcement under Section 1701.160, Occupations Code;

(30)  commission investigators commissioned by the Texas Private Security Board under Section 1702.061, Occupations Code;

(31)  the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code;

(32)  officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section;

(33)  investigators commissioned by the Texas Juvenile Justice Department as officers under Section 221.011, Human Resources Code; [~~and~~]

(34)  the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code; and

(35)  officers of the Border Protection Task Force commissioned by the task force chief under Section 425.054, Government Code.

SECTION 2.02.  Subtitle B, Title 4, Government Code, is amended by adding Chapter 425 to read as follows:

CHAPTER 425. BORDER PROTECTION TASK FORCE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 425.001.  DEFINITIONS. In this chapter:

(1)  "Alien" has the meaning assigned by 8 U.S.C. Section 1101.

(2)  "Border region" has the meaning assigned by Section 772.0071.

(3)  "Chief" means the chief of the task force.

(4)  "Governing body" means the governing body of the state agency selected under Section 425.002.

(5)  "Local government" means a municipality, county, special purpose district, or other political subdivision of this state.

(6)  "Port of entry" means a port or place designated by the United States Department of Homeland Security at which an alien may apply to the department for admission into the United States.

(7)  "State agency" means a board, commission, department, office, or other agency in the executive branch of state government.

(8)  "Task force" means the Border Protection Task Force established under this chapter.

Sec. 425.002.  BORDER SECURITY ADVISORY COUNCIL TO RECOMMEND STATE AGENCY FOR BORDER PROTECTION TASK FORCE. (a) The Border Security Advisory Council established under Section 421.0425 shall provide to the governor a list of recommendations for the state agency that will establish the Border Protection Task Force.

(b)  The governor shall select from the list under Subsection (a) the state agency that will establish the Border Protection Task Force.

Sec. 425.003.  BORDER PROTECTION TASK FORCE ESTABLISHED. (a) The governing body of the state agency selected under Section 425.002 shall establish the Border Protection Task Force as a division within the agency to provide cross-functional expertise to border protection operations and improve efficiency and effectiveness of the border protection operations of the state agencies and political subdivisions of this state.

(b)  The governing body shall appoint, with the approval of the governor, a chief of the task force.

(c)  The chief serves at the will of the governing body.

Sec. 425.004.  TERM OF AUTHORIZATION. (a) The task force is subject to appropriations from the legislature and continues in existence until September 1, 2031, unless reauthorized by the legislature.

(b)  This chapter expires September 1, 2031.

Sec. 425.005.  HEADQUARTERS; REGIONAL OFFICES. The task force must be headquartered in the border region. The task force may establish regional offices along the Texas-Mexico border.

Sec. 425.006.  CONSOLIDATION OF STATE AGENCY BORDER OPERATIONS. (a) The chief shall identify resources the task force needs to conduct border protection operations, including personnel, equipment, and facilities owned or controlled by state agencies that conduct border protection operations under Operation Lone Star. The chief may identify any resources dedicated to border security that are owned or controlled by:

(1)  the office of the governor;

(2)  the office of the attorney general;

(3)  the Department of Public Safety;

(4)  the Texas Military Department;

(5)  the Parks and Wildlife Department;

(6)  the Texas Alcoholic Beverage Commission;

(7)  the Texas Department of Criminal Justice;

(8)  the Texas Commission on Jail Standards;

(9)  the Texas Commission on Law Enforcement;

(10)  the Office of Court Administration of the Texas Judicial System;

(11)  the Department of State Health Services;

(12)  the Texas Department of Motor Vehicles;

(13)  the Texas Division of Emergency Management;

(14)  the State Soil and Water Conservation Board; and

(15)  any other state agency designated by the governor.

(b)  Each state agency that owns or controls resources identified under Subsection (a) shall dedicate those resources to the task force and its duties.

Sec. 425.007.  REIMBURSEMENT FOR STATE USE OF LOCAL GOVERNMENT RESOURCES. (a) The chief shall identify resources the task force needs to conduct border protection operations, including personnel, equipment, and facilities owned or controlled by local governments that conduct border protection operations along the Texas-Mexico border.

(b)  A local government that owns or controls resources identified under Subsection (a) may by written agreement with the task force dedicate those resources to the task force and its duties.

(c)  A local government that dedicates resources to the task force under this section is entitled to reimbursement for the use of those resources as provided by the written agreement under Subsection (b) and the General Appropriations Act.

Sec. 425.0071.  EMPLOYMENT OF DEDICATED PERSONNEL; COOPERATIVE WORK. (a) A person who is dedicated to the task force under Section 425.006 or 425.007 remains an employee of the assigning state agency or local government but the person may be assigned duties by the chief.

(b)  A person who is dedicated to the task force shall work cooperatively with employees of the task force and other persons dedicated to the task force under the guidance of the chief to achieve efficiency in efforts by state agencies and local governments to enforce the law in the border region.

Sec. 425.0072.  COOPERATION WITH BORDER PROSECUTION UNIT. (a) In this section, "border prosecution unit" means the border prosecution unit established under Section 772.052.

(b)  The task force shall cooperate with the border prosecution unit to carry out the duties of the task force and the unit.

(c)  The border prosecution unit as needed may assign a prosecutor from the unit to the task force headquarters or any regional office of the task force.

Sec. 425.008.  GIFTS, GRANTS, AND DONATIONS. The task force may accept gifts, grants, and donations from any source, including private and nonprofit organizations, for the purposes of implementing this chapter.

Sec. 425.009.  FEDERAL AND LOCAL COOPERATION. The task force shall coordinate with any federal agency or any local government as necessary to carry out the duties of the task force.

SUBCHAPTER B. POWERS AND DUTIES

Sec. 425.051.  GENERAL POWERS AND DUTIES OF CHIEF; RULES. (a) The chief shall:

(1)  formulate plans and policies for the protection of the citizens of this state in the Texas-Mexico border region, including the air, maritime, and land borders of this state;

(2)  organize the task force and supervise its operation;

(3)  maintain records of all task force proceedings and official orders; and

(4)  biennially submit a report of the task force's operations to the governor and legislature.

(b)  The chief is directly responsible to the governing body for the conduct of the task force and shall act as the chief administrative officer of the task force.

(c)  The chief, with the approval of the governing body, may adopt rules necessary to carry out the duties of the task force, including rules for procuring equipment and facilities, providing training, and adopting policies governing the personnel of the task force.

Sec. 425.052.  OPERATIONAL PLAN TO COORDINATE BORDER PROTECTION. (a) The chief or the chief's designee shall develop and recommend to the governor, the legislature, and the governing body a strategic plan that establishes the framework for the budgeting and operations of the task force, including homeland security strategies, to be administered by the task force and state agencies that provide assistance to the task force.

(b)  The strategic plan under Subsection (a) must include:

(1)  goals and performance measures that involve collaboration with other state agencies and local governments; and

(2)  an evaluation of 8 U.S.C. Section 1325(a) and other federal laws relating to the requirement that the admission of aliens into the United States occur only at ports of entry.

(c)  The chief shall annually report to the governor, the legislature, and the governing body on the implementation of the strategic plan.

Sec. 425.053.  DEPUTY CHIEFS. The chief, with the approval of the governing body, may appoint deputy chiefs and regional commanders to oversee the regional offices authorized by Section 425.005.

Sec. 425.054.  OFFICERS AND OTHER EMPLOYEES. (a) The chief may commission, with the approval of the governing body, officers of the task force as peace officers.

(b)  The chief may hire any employees as necessary to carry out the duties of the task force.

Sec. 425.055.  QUALIFICATIONS. (a) To be a commissioned officer of the task force, a person must hold or obtain a peace officer license under Chapter 1701, Occupations Code.

(b)  To be a noncommissioned officer of the task force, a person must meet the qualifications set by the chief by rule.

(c)  The chief may provide by rule for the qualifications of any other employees of the task force.

(d)  The task force is an equal employment opportunity employer, and the task force may not discriminate against or give preferential treatment to any employee or job applicant on account of the individual's race, color, sex, national origin, or religion.

Sec. 425.056.  TRAINING. The task force shall acquire equipment and facilities and conduct training necessary to carry out the operational, intelligence, communication, logistics, and administrative duties of the task force, including land, air, and maritime responsibilities. The task force shall conduct the training in the border region.

Sec. 425.057.  AUTHORITY OF DEDICATED PERSONNEL. (a) A person dedicated to the task force and its duties under Section 425.006 or 425.007 retains the authority of the office held by the person with the dedicating state agency or local government and may exercise any powers granted to the task force under this chapter with the approval of the chief.

(b)  The governing body, with the approval of the governor, may assign the person additional duties consistent with the duties of the task force under this chapter.

(c)  Notwithstanding any other provision of this chapter, a person dedicated to the task force may not be granted any powers or authority that exceeds the powers or authority granted by other law to the office held by the person with the dedicating state agency or local government.

Sec. 425.058.  USE OF DEDICATED PROPERTY. Any property, including equipment or facilities, dedicated to the task force and its duties under Section 425.006 or 425.007 may be used for the purposes of the dedicating state agency or local government or the purposes of the task force.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.