

By: Eckhardt, Menéndez

S.B. No. 67

A BILL TO BE ENTITLED

AN ACT

relating to powers and duties of the Texas Division of Emergency Management for a local state of disaster; enhancing a criminal penalty.

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

SECTION 1. Section 108.001(3), Business & Commerce Code, is amended to read as follows:

(3) "Declared disaster" means:

(A) a disaster declared by the president of the United States;

(B) a state of disaster declared by the governor under Chapter 418, Government Code; or

(C) a local state of disaster declared by the governing body of a political subdivision or the administrative head of the Texas Division of Emergency Management under Section 418.108, Government Code.

SECTION 2. Section 37.004(g), Government Code, is amended to read as follows:

(g) In this section, "declaration of a state of disaster" means a declaration made by:

(1) the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(2) the governor under Section 418.014; or

1 (3) the presiding officer of the governing body of a
2 political subdivision or the administrative head of the Texas
3 Division of Emergency Management under Section 418.108.

4 SECTION 3. Section 418.108, Government Code, is amended by
5 adding Subsections (a-1) and (h-1) and amending Subsections (b) and
6 (e) to read as follows:

7 (a-1) The division shall monitor political subdivisions for
8 conditions for which a declaration of a local state of disaster may
9 be appropriate. If the division determines a local state of
10 disaster should be declared for a political subdivision, the
11 situation involves imminent harm to individuals in the political
12 subdivision, and the governor or appropriate officials of the
13 political subdivision are likely not available, the division shall
14 immediately attempt to notify the executive head of that political
15 subdivision of the determination. The administrative head of the
16 division may declare a local state of disaster for the political
17 subdivision if the political subdivision does not respond within a
18 reasonable time after the division attempts to provide the notice.

19 (b) A declaration of local disaster may not be continued or
20 renewed for a period of more than seven days except with the consent
21 of the governing body of the political subdivision or the joint
22 board as provided by Subsection (e), as applicable. The governing
23 body of the political subdivision may rescind a declaration of
24 local disaster issued by the administrative head of the division
25 under Subsection (a-1).

26 (e) Except as provided by Subsection (a-1), the ~~The~~ chief
27 administrative officer of a joint board has exclusive authority to

1 declare that a local state of disaster exists within the boundaries
2 of an airport operated or controlled by the joint board, regardless
3 of whether the airport is located in or outside the boundaries of a
4 political subdivision.

5 (h-1) For a political subdivision for which the
6 administrative head of the division declares a local state of
7 disaster under Subsection (a-1) and until the governor or
8 appropriate officials of the political subdivision are available,
9 the division may:

10 (1) order the evacuation of all or part of the
11 population from a disaster area in the political subdivision if the
12 division considers the action necessary for the preservation of
13 life or other disaster mitigation, response, or recovery; and

14 (2) control ingress to and egress from a disaster area
15 and control the movement of individuals and the occupancy of
16 premises in that area.

17 SECTION 4. Section 12.50(a), Penal Code, is amended to read
18 as follows:

19 (a) Subject to Subsections (c) and (d), the punishment for
20 an offense described by Subsection (b) is increased to the
21 punishment prescribed for the next higher category of offense if it
22 is shown on the trial of the offense that the offense was committed
23 in an area that was, at the time of the offense:

24 (1) subject to a declaration of a state of disaster
25 made by:

26 (A) the president of the United States under the
27 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42

1 U.S.C. Section 5121 et seq.);

2 (B) the governor under Section 418.014,
3 Government Code; or

4 (C) the presiding officer of the governing body
5 of a political subdivision or the administrative head of the Texas
6 Division of Emergency Management under Section 418.108, Government
7 Code; or

8 (2) subject to an emergency evacuation order.

9 SECTION 5. This Act takes effect on the 91st day after the
10 last day of the legislative session.