

BILL ANALYSIS

H.B. 3
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Disaster Preparedness & Flooding, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In April 2024, the Investigative Committee on the Panhandle Wildfires heard three days of testimony regarding the more than one million acres that burned in the Texas Panhandle. Multiple witnesses testified that one of the biggest issues facing the first responders in the Smokehouse Creek Fire was a lack of interoperable communications, which led to additional resources being left on the sidelines and delays in direction from leadership and contributed to the largest wildfire in Texas history. Additionally, the Select Committee on Disaster Preparedness & Flooding heard similar testimony regarding the lack of interoperability during the July Hill Country floods. H.B. 3 seeks to address the inability of first responders to communicate with outside departments and facilitate interoperable communications between first responders by creating the Texas Interoperability Council, which is charged with developing and coordinating the implementation of a statewide strategic plan for the interoperability of emergency communication equipment and infrastructure for first responders in Texas and, as advisable, emergency alert systems. The bill also charges the council with incorporating necessary communication technologies into the state's emergency communications network and provides for a grant program for local governments to acquire communication equipment and construct communication infrastructure needed to connect to that network.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill 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 rulemaking authority is expressly granted to the Texas Interoperability Council and the Texas Division of Emergency Management in SECTION 1 of this bill, the governor in SECTION 2 of this bill, and the Texas Interoperability Council in SECTION 3 of this bill.

ANALYSIS

H.B. 3 amends the Government Code and Local Government Code to set out provisions relating to the interoperability of emergency communication equipment and infrastructure in Texas, including the creation and operation of the Texas Interoperability Council, a grant program administered by the council, and the purchase of certain public safety radio communication systems.

Texas Interoperability Council; Grant Program

H.B. 3 establishes the Texas Interoperability Council for the following purposes:

- to develop and coordinate the implementation of a statewide strategic plan for governing the interoperability of emergency communication equipment and infrastructure in Texas;
- to develop and implement, as advisable, emergency alert systems and incorporate as necessary communication technologies into the state's emergency communications network; and
- to administer a grant program to assist local governments with the following:
 - acquiring emergency communication equipment that is interoperable with other emergency communication equipment and infrastructure in Texas; and
 - constructing additional emergency communication infrastructure to ensure that Texas first responders have access to equipment and infrastructure that is interoperable to the extent necessary to effectively communicate during an emergency.

The bill defines "local government" as a municipality, a county, a special district or authority, or any other political subdivision of the state.

H.B. 3 sets out the composition of the council to include the chief of the Texas Division of Emergency Management (TDEM), who serves as the council's presiding officer, and six members appointed by the governor. The bill requires the governor, in making the appointments, to ensure that the council includes representation from the following entities:

- state and local emergency response agencies;
- public safety communications professionals;
- emergency communication districts created under Health and Safety Code provisions relating to the local administration of emergency communications, including regional emergency communication districts;
- individuals with technical expertise in interoperable communications systems;
- the Texas Department of Transportation;
- the statewide interoperability coordinator or another representative of the Department of Public Safety;
- the Texas Military Department; and
- the office of the governor, including any division responsible for homeland security.

The bill establishes that the appointed council members serve staggered six-year terms, with the terms of two members expiring September 1 of each odd-numbered year. The bill establishes that a majority of the voting members of the council constitutes a quorum to transact business and, if such a quorum is present, authorizes the council to act on any matter within the council's jurisdiction by a majority vote. The bill requires the council to meet as often as necessary at the call of the presiding officer to perform the council's duties and exempts the council from applicability of the Administrative Procedure Act.

H.B. 3 authorizes the council to conduct a closed meeting in accordance with state open meetings law to deliberate or confer with one or more employees, consultants of the council, or legal counsel of the council to discuss the following:

- a grant application under the grant program established by the bill that is being considered by the council if, before conducting the closed meeting, a majority of the voting members of the council in an open meeting vote that deliberating or conferring in an open meeting would do the following:
 - reveal the grant applicant's confidential information;
 - reveal national security information or other sensitive security information of the state or a political subdivision of the state; or
 - have a detrimental effect on the position of the council in negotiations with a grant applicant; or
- a matter related to the establishment of emergency management infrastructure, the purchase or use of emergency management equipment, or the training of emergency

management personnel, if an open meeting would reveal national security information or other sensitive security information of the state or a political subdivision of the state. The bill authorizes the council to disclose such a matter discussed in a closed meeting with any state agency if the council's presiding officer determines it necessary for the establishment of emergency management infrastructure, the purchase or use of emergency management equipment, or the training of emergency management personnel. Any vote or final action taken on a matter discussed in a closed meeting must be conducted in an open meeting. The bill establishes that a grant application and related documentation under the grant program is confidential and not subject to disclosure under state public information law.

H.B. 3 requires the council, in collaboration with any state agency or private entity as the council determines appropriate, to develop a statewide strategic plan to govern the interoperability of emergency communication equipment and infrastructure in Texas. The bill requires the strategic plan to include the following:

- a plan for the construction of communication infrastructure necessary to ensure effective emergency communications among first responders in Texas, including the acquisition of land as necessary for construction;
- training programs necessary to ensure that state agencies and local governments have the skills and resources necessary to access and effectively use the emergency communication equipment and infrastructure available in Texas;
- a plan to ensure that first responders throughout Texas are equipped with emergency communication equipment that is interoperable with other emergency communication equipment in Texas; and
- a plan to ensure that any new emergency communication equipment and infrastructure acquired or constructed under the plan can be adapted to or integrated with any existing emergency communication equipment and infrastructure.

The bill requires the council to consider including the following in the strategic plan:

- the use of outdoor warning sirens;
- implementing an emergency alert system that alerts the public of evacuation recommendations or orders related to floods, fires, and other disasters and that has the capability of alerting persons in an affected geographic area through messages sent to those persons' communication devices; and
- the use of broadband service as part of the state's emergency communications network.

The bill requires the council, in collaboration with state agencies as needed, to implement the strategic plan and coordinate the state's emergency communications network to ensure interoperability for first responders.

Grant Program

H.B. 3 requires the council to establish a grant program to provide grants to local governments for the purchase of emergency communication equipment and infrastructure, the construction of emergency communication infrastructure, and the expenses of training employees of the local government for the effective use of the equipment during an emergency. The bill does the following regarding the grant program's administration:

- requires an applicant, in order to be eligible for such a grant, to be a local government, submit a proposal to the council, and comply with the rules established by the council for the administration of the grant program;
- requires the council to establish procedures to administer the grant program, including eligibility criteria for a grant recipient, guidelines relating to grant amounts, and procedures for submitting and evaluating proposals;
- requires the council to enter into a contract that includes performance requirements with each grant recipient and to monitor and enforce the terms of the contract;
- authorizes the council to require, as a condition of an awarded grant, that the officers or employees of the recipient successfully complete one or more training programs, as determined by the council, which may include incident command system training, and

that the recipient adopt standardized procedures for incident command or management; and

- authorizes the council to delegate the administration of the grant program to a state agency.

H.B. 3 authorizes money awarded under the grant program to be used only to do the following:

- purchase emergency communication equipment, including radios, spare parts, and accessories, for use by first responders that is interoperable with the other emergency communication equipment and infrastructure in Texas or enables interoperability;
- construct emergency communication infrastructure, including radio towers, that is interoperable with the other emergency communication equipment and infrastructure in Texas or enables interoperability, including the acquisition of land necessary for the construction;
- cover the cost of adapting existing emergency communication equipment or infrastructure to, or otherwise integrating the equipment or infrastructure with, new emergency communication equipment purchased or infrastructure constructed;
- cover the operational or maintenance cost of the purchased, constructed, or adapted equipment or infrastructure, as applicable; or
- cover the cost of providing to first responders, or having first responders attend, training on the effective use of such equipment and infrastructure.

H.B. 3 authorizes the council to use any available funds to implement the grant program and to accept gifts, grants, and donations from any source, including private and nonprofit organizations, for the purpose of implementing the bill's provisions relating to the establishment of the council and the grant program. The bill authorizes TDEM to adopt rules to administer the bill's provisions relating to the establishment of the council and the grant program. The bill requires the governor, as soon as practicable after the bill's effective date, to appoint the six council members, with two council members each serving terms expiring September 1 of 2027, 2029, and 2031.

Governor Approval of Purchases of Public Safety Radio Communication Systems

H.B. 3, in provisions that expire January 1, 2027, requires the governor by rule to establish standards for determining whether the purchase and use of a public safety radio communication system by a political subdivision would materially impair interoperability among public safety radio communication systems used by other governmental entities in the region of the political subdivision proposing the purchase. The bill requires that the standards meet the following criteria:

- include minimum technical specifications that the system must meet;
- be based on the strategic plan designed and implemented by the office of the governor under applicable Government Code provisions for a statewide integrated public safety radio communications system that promotes interoperability within and between local, state, and federal agencies and first responders; and
- contain limitations on the use of burdensome procedures to achieve interoperability among systems.

The bill defines "public safety radio communication system" as a radio communication system, including infrastructure, equipment, software, and other similar products as the governor determines necessary, that is used by a governmental entity in public safety operations, such as law enforcement, fire protection, emergency medical services, and disaster response and recovery.

H.B. 3 conditions the authority of a political subdivision to purchase a public safety radio communication system on the governor reviewing and approving the proposed purchase. The bill authorizes a political subdivision, in the form and manner prescribed by governor rule, to request that the governor conduct a review of a proposed purchase of a public safety radio communication system. The bill requires the governor to conduct the requested review and, not

later than the 90th day after the date on which the governor received the request, to do the following in writing:

- approve the request;
- summarily deny the request; or
- conditionally deny the request, specify the deficient standards and other criteria on which the denial was based, and provide corrective measures by which the political subdivision may alter the proposal in order to obtain approval.

The bill requires the governor to approve a proposed purchase that has been reviewed only if the proposed purchase and use of the system does not materially impair the interoperability among public safety radio communication systems used by other governmental entities in the region of the applicable political subdivision proposing the purchase, in accordance with the standards established by the governor under the bill's provisions. The bill requires the governor to deny, summarily or conditionally, a proposed purchase if the proposed purchase and use of the public safety radio communication system materially impairs the interoperability among public safety radio communication systems used by other governmental entities in the region of the applicable political subdivision.

H.B. 3 authorizes a political subdivision, after a summary denial, to request that the governor specify in writing the deficient standards and other criteria on which the denial was based and provide corrective measures by which the political subdivision may alter the proposal in order to obtain approval and requires the governor to provide such specification on request. The bill requires the governor by rule to provide procedures for appealing a denial of a request of a proposed purchase.

H.B. 3 requires the governor, not later than January 1, 2026, to adopt the rules required by the bill's provisions relating to the governor's required approval of purchases of public safety radio communication systems. The bill's provisions relating to the governor's approval of purchases of public safety radio communication systems expire January 1, 2027, and apply only to the purchase of a public safety radio communication system by a political subdivision that occurs on or after January 1, 2026.

Council Approval of Purchases of Public Safety Radio Communication Systems

Effective January 1, 2027, H.B. 3 transfers to the Texas Interoperability Council the powers, duties, and functions of the governor to establish the aforementioned standards by rule, conduct requested reviews of purchases of public safety radio communications systems by political subdivisions, approve or deny such requests, and provide procedures for the appeal of denials, as set out in the bill's provisions relating to the governor's approval of such purchases. Accordingly, the bill updates the definition of "public safety radio communication system" to include applicable products, as the council determines necessary, that are used by a governmental entity in public safety operations, provides for the council to prescribe by rule the form and manner of a review request, and requires the council by rule to provide procedures for appealing a denial of a request of a proposed purchase. The bill's provisions relating to council approval of public safety radio communications purchases apply only to the purchase of such a system by a political subdivision that occurs on or after January 1, 2027.

Procedures for Transferring Certain Powers, Duties, and Functions of the Governor to the Council

H.B. 3 requires the governor and the council, not later than December 1, 2026, to enter into a memorandum of understanding to transfer on January 1, 2027, from the governor to the council all powers, duties, and functions of the governor's office related to the program of reviewing political subdivisions' purchases of public safety radio communication systems provided for under the bill's provisions, including, as necessary, any employee positions, equipment, facilities, contracts, and appropriated money associated with the program. On January 1, 2027, a rule, form, policy, procedure, or decision of the governor's office related to a power, duty, or

function of the program continues in effect as a rule, form, policy, procedure, or decision of the council and remains in effect until amended or replaced by the council. Beginning September 1, 2026, the council may propose rules, forms, policies, and procedures related to the program to be transferred to the council under the bill.

EFFECTIVE DATE

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, the 91st day after the last day of the legislative session.