

By: Eckhardt, Menéndez

S.B. No. 32

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

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

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

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

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

(e) Except as provided by Subsection (a-1), the ~~The~~ chief 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.