

BILL ANALYSIS

C.S.H.B. 118

By: Hefner

Homeland Security, Public Safety & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that the 2020 coronavirus pandemic revealed both the country's supply chain vulnerabilities and the willingness of certain foreign adversaries to weaponize the supply chains that they control. The bill author has also informed the committee that federal authorities have issued warnings that these adversaries are preparing cyberattacks against the country's critical infrastructure and that Texas has already experienced some of these cyberattacks in the form of attacks on rural water systems. C.S.H.B. 118, the Texas Geopolitical Conflict Stress Test Act, seeks to enhance the state's preparedness for potential geopolitical conflicts by establishing the Texas Advisory Committee on Geopolitical Conflict, which is tasked with assessing and reporting on certain matters relating to military readiness, supply chain risks, and infrastructure vulnerabilities.

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

ANALYSIS

C.S.H.B. 118 amends the Government Code to establish the Texas Advisory Committee on Geopolitical Conflict and provide for its administration, operation, powers, and duties.

Policy Statement

C.S.H.B. 118 establishes the following as the state's policy:

- to support the civilian and military command of the United States and its efforts to promote and maintain prosperity, peace, and security for the United States and its allies;
- to enhance the defensive posture of the state, to protect the state's citizens and assets, and to contribute to the broader defensive posture of the United States by reducing security vulnerabilities within Texas; and
- to exercise foresight and make reasonable preparations for a potential geopolitical conflict that:
 - involves attacks on the United States and its allies;
 - involves asymmetrical attacks on the U.S. homeland; and
 - causes the disruption or complete severing of supply chains between Texas and international trade partners.

Advisory Committee Administration and Operation

C.S.H.B. 118 establishes the Texas Advisory Committee on Geopolitical Conflict to develop state security strategies and policies before a geopolitical conflict occurs and to collect and prepare information to assist in enhancing the state's command-and-control functions in the event of such a conflict. The advisory committee consists of the following nine members:

- one member appointed by the governor;
- a representative of the Texas National Guard, appointed by the governor;
- two members appointed by the lieutenant governor;
- two members appointed by the speaker of the house of representatives;
- the adjutant general or the adjutant general's designee;
- the public safety director of the Department of Public Safety or the director's designee; and
- the chief of the Texas Division of Emergency Management or the chief's designee.

The bill requires the governor, the lieutenant governor, and the speaker of the house, in making appointments to the advisory committee, to appoint individuals who have applicable knowledge of the threats posed to Texas in the event of a geopolitical conflict and to appoint the members not later than October 31, 2025.

C.S.H.B. 118 requires the appointed advisory committee members to serve for a term of two years and requires the appropriate appointing authority, if a vacancy occurs on the advisory committee, to appoint a successor in the same manner as the original appointment. The bill requires the advisory committee member appointed by the governor that is not a representative of the Texas National Guard to serve as chair of the advisory committee and to have applicable knowledge of the threats posed to Texas in the event of a geopolitical conflict and the research and leadership experience to competently and comprehensively perform the advisory committee's duties. The bill requires the lieutenant governor to designate one appointee to serve as vice chair of the advisory committee, authorizes the advisory committee to elect additional officers from among its members, and requires the advisory committee to establish and approve duties and responsibilities for advisory committee officers.

C.S.H.B. 118 establishes that an advisory committee member is not entitled to compensation for service on the committee but is entitled to reimbursement for actual and necessary expenses incurred in performing committee duties as provided by the General Appropriations Act. The bill requires the advisory committee to meet at least once every three months, with additional meetings on the call of the governor or a majority of advisory committee members. The bill excepts advisory committee meetings from the requirements of state open meetings law. The bill authorizes the advisory committee to accept gifts, grants, and donations to pay for the advisory committee's activities under the bill's provisions.

Advisory Committee Powers and Duties

General Powers

C.S.H.B. 118 authorizes the advisory committee to do the following:

- consult with and retain external advisors to provide expertise and collaborative research support; and
- conduct field investigations, hold hearings, receive testimony in any form, consult with federal and state officials, and otherwise take any lawful action to carry out the purposes of the advisory committee.

Tabletop Exercise and Report

C.S.H.B. 118 requires the advisory committee, with assistance from the Texas National Guard, to conduct a tabletop exercise centered on an invasion by a foreign adversary. The exercise must explore the following scenarios:

- a scenario that would result in aggression against the U.S. armed forces; and
- a scenario that would involve intentional or incidental damage to a state supply chain, a critical infrastructure facility, or another asset.

The bill requires the advisory committee to produce and submit to the governor a report describing how a geopolitical conflict would impact Texas not later than May 29, 2026, and authorizes the advisory committee to request additional tabletop exercise reports following the initial report. For the purposes of conducting a tabletop exercise under these provisions, an entity providing electric or gas utility services is not required to disclose the specific locations of the entity's critical infrastructure to the advisory committee.

Supply Chains and Critical Procurements Audit and Report

C.S.H.B. 118 requires the advisory committee, with assistance from the adjutant general, to investigate critical procurements supplied through a state supply chain that would be disrupted in the event of a geopolitical conflict. The bill requires the advisory committee to produce and submit a report of the committee's findings to the governor not later than May 29, 2026, and requires the initial report to do the following:

- identify all critical procurements produced in or by a foreign adversary, a state-owned enterprise of a foreign adversary, a company domiciled within the territory of a foreign adversary, or a company owned by a company domiciled within the territory of a foreign adversary, or substantially sourced from such an entity;
- identify all critical procurements manufactured in countries, or by companies, at risk of disruption in the event of a geopolitical conflict;
- identify all critical procurements sourced from any country or company that relies on a supply chain at risk of disruption in the event of a geopolitical conflict;
- recommend alternative sourcing strategies for critical procurements, if available;
- highlight the difficulty in identifying potential alternative sourcing for critical procurements, if relevant; and
- specify the level of risk to Texas associated with a previously described disruption in the event of a geopolitical conflict in supply chain sourcing for each critical procurement that is threatened in the event of the disruption.

The bill authorizes the advisory committee to conduct additional investigations following the initial report.

Drug Supply Chain Audit and Report

C.S.H.B. 118 requires the advisory committee, in collaboration with the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS), to investigate the state's drug supply chain to identify prescription drugs, including active pharmaceutical ingredients and key starting materials, that are produced in or by a foreign adversary or substantially sourced from a company subject to the jurisdiction of a foreign adversary. For this purpose "company subject to the jurisdiction of a foreign adversary" includes a state-owned enterprise of a foreign adversary, a company domiciled or headquartered in the territory of a foreign adversary, or any wholly owned or majority-owned subsidiary of a company domiciled or headquartered in the territory of a foreign adversary. The bill requires the advisory committee to do the following:

- investigate whether the identified prescription drugs are of low or questionable efficacy or are toxic or contain impurities known to the FDA, the U.S. Department of Agriculture, or any other governmental agencies to pose a risk to human health; and
- study whether the drug supply chain of the identified prescription drugs would be disrupted in the event of a geopolitical conflict; and
- produce an initial report on the identified prescription drugs that does the following:
 - lists the prescription drugs;
 - identifies the classes and common uses of the prescription drugs;

- assesses the risk posed by the prescription drugs, including concerns related to quality, efficacy, toxicity, or impurity;
- determines the impact of a geopolitical conflict on the drug supply chain of the prescription drugs;
- recommends alternative sourcing strategies for the prescription drugs in the event of a geopolitical conflict;
- describes any difficulty in identifying or using those alternative sourcing strategies for prescription drugs, as necessary; and
- determines the feasibility and cost of creating and maintaining a strategic supply of prescription drugs in the event of a geopolitical conflict.

The bill requires the advisory committee to submit the initial report to the governor not later than May 29, 2026, and authorizes the advisory committee to conduct additional investigations and produce additional reports on the identified prescription drugs as the committee determines necessary.

Critical Infrastructure Protection Audit and Report

C.S.H.B. 118 requires the advisory committee to investigate potential threats to critical infrastructure in Texas in the event of a geopolitical conflict and to produce and submit to the governor a report of the committee's findings not later than May 29, 2026. The initial report must do the following:

- identify all critical infrastructure and other assets within Texas that could reasonably be targeted in a malicious act by a foreign adversary in the event of a geopolitical conflict and would result in a significant negative impact on the public health, safety, economic security, or physical security of Texas' citizens;
- identify specific risks posed to each such asset in the event of a geopolitical conflict, including known vectors of attack such as cyberattack and physical sabotage; and
- develop strategies to do the following:
 - prevent and protect against threats posed to the identified critical infrastructure and other assets in the event of a geopolitical conflict; and
 - minimize the damage to Texas if such a malicious act succeeds in damaging critical infrastructure and other assets in Texas.

The bill authorizes the advisory committee to conduct additional investigations and produce additional reports as the committee determines necessary.

Other Investigations and Subpoena

C.S.H.B. 118 authorizes the advisory committee to investigate additional matters at its own discretion on a majority vote of the committee. The bill authorizes the advisory committee to do the following with respect to a subpoena:

- compel by subpoena the attendance of a relevant witness at a hearing or the production for inspection or copying of a record that is relevant to the advisory committee's duties under the bill's provisions; and
- acting through the attorney general, bring an action in a district court to enforce such an issued subpoena against a person who fails to comply with the subpoena.

The bill requires the court to order compliance with the subpoena if the court finds that good cause exists to issue the subpoena.

Confidentiality of Information

C.S.H.B. 118 establishes that, except as otherwise provided by the bill, any research, data, reports, findings, and other information provided to or produced by the advisory committee must be maintained by the office of the governor and is confidential and excepted from the public availability requirement of state public information law. The bill authorizes the governor to disclose that information and establishes that a disclosure by the governor is not considered a disclosure of confidential information or a disclosure to the public for purposes of provisions of

state public information law relating to the voluntary disclosure of certain information when disclosure is not required and does not waive the right to assert in the future that the information is confidential or excepted from required disclosure under these bill provisions or other law.

Public Report and Policy Recommendations

C.S.H.B. 118 requires the advisory committee to make available an annual report with narrative and summary findings from its investigations for the purpose of educating the public, notwithstanding the bill's confidentiality provisions and subject to the following provisions. The report may include policy recommendations for consideration by state and local government officials and recommendations to improve the resilience of Texas' citizens and critical infrastructure but may not include any information the release of which would pose a risk to state security or national security. The bill prohibits the advisory committee from releasing the required annual report unless the release is approved by a majority vote of the advisory committee.

Expiration

C.S.H.B. 118 abolishes the advisory committee on September 1, 2029, and sets the bill's provisions to expire on that date.

Definitions

C.S.H.B. 118 defines the following terms:

- "critical infrastructure" as a publicly or privately owned system or asset, whether physical or virtual, so vital to Texas or to the United States that the incapacity or destruction of the system or asset would have a debilitating impact on state or national security, state or national economic security, state or national public health, or any combination of these, including:
 - an oil and gas production, storage, or delivery system;
 - a water supply, refinement, storage, or delivery system;
 - a communications network;
 - an electrical power delivery system;
 - an emergency service system;
 - a transportation system or service;
 - a personal data or classified information storage system, including a cybersecurity system; or
 - a military installation;
- "critical procurement" as a purchase made by a state agency, a political subdivision of the state, or a private nongovernmental organization that is critical to the proper functioning of state services, state operations, or the operations of Texas' critical infrastructure, or the health, safety, or security of Texas' citizens;
- "drug supply chain" as the end-to-end process for manufacturing, acquiring, shipping, and vending prescription drugs beginning at any point of origin and ending in Texas, including acquiring and shipping any key starting materials and active pharmaceutical ingredients necessary to manufacture and distribute prescription drugs in Texas;
- "geopolitical conflict" as:
 - a declared war or armed conflict between the United States or any of its allies and another nation that occurs in the land, air, or sea and threatens or could reasonably escalate to threaten the supply chains, critical infrastructure, safety, or security of Texas or the United States; or
 - a significant deterioration of diplomatic ties or economic engagement between the United States or its allies and another nation that threatens the status quo of trade, travel, and military operations or exercises;
- "state supply chain" as the end-to-end process for shipping goods purchased by a state agency or a political subdivision of the state to the state agency or political subdivision,

beginning at the point of origin through any point of distribution, including through vendors, to the destination; and

- "Texas National Guard" by reference to statutory provisions relating to the Texas military as the Texas Army National Guard and the Texas Air National Guard.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 118 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced established the Texas Advisory Committee on Pacific Conflict, the substitute establishes the Texas Advisory Committee on Geopolitical Conflict. Accordingly, the substitute changes the bill's short title from the Texas Pacific Conflict Stress Test Act, as in the introduced, to the Texas Geopolitical Conflict Stress Test Act and does the following:

- replaces the introduced version's definition of "Pacific conflict" with a definition of "geopolitical conflict" that differs only by omitting specifications that applicable actions occur in the Pacific Ocean region; and
- replaces the introduced version's references to "Pacific conflict" with references to "geopolitical conflict" throughout the bill.

Both the introduced and the substitute establish that it is the state's policy to exercise foresight and make reasonable preparations for certain potential conflicts. However, whereas the introduced referenced a potential conflict centered in the Pacific Ocean region which could involve attacks on the United States and its allies in the Pacific Ocean region, involve asymmetrical attacks on the United States, and cause the disruption or complete severing of supply chains between Texas and the People's Republic of China, the Republic of China, or other countries in the Pacific Ocean region, the substitute instead references a geopolitical conflict that involves attacks on the United States and its allies, involves asymmetrical attacks on the U.S. homeland, and causes the disruption or complete severing of supply chains between Texas and international trade partners.

The substitute replaces the introduced version's requirement for the advisory committee to conduct a tabletop exercise centered on an invasion of the Republic of China by the People's Republic of China with a requirement for the advisory committee to conduct a tabletop exercise centered on an invasion by a foreign adversary. With respect to the requirement in both the introduced and the substitute for the tabletop exercise to explore a scenario that would result in aggression against U.S. armed forces, the substitute removes the introduced version's specification that such aggression occurs in the Pacific Ocean region. The substitute includes a provision absent from the introduced establishing that, for purposes of conducting the tabletop exercise, an entity providing electric or gas utility services is not required to disclose the specific locations of the entity's critical infrastructure to the advisory committee.

The substitute includes the following provisions absent from the introduced relating to a required drug supply chain audit and report:

- a requirement for the advisory committee, in collaboration with HHSC and DSHS, to investigate the state's drug supply chain to identify prescription drugs, including active pharmaceutical ingredients and key starting materials, that are produced in or by a foreign adversary or substantially sourced from a company subject to the jurisdiction of a foreign adversary;

- a requirement for the advisory committee to investigate whether the identified prescription drugs are of low or questionable efficacy or are toxic or contain impurities known to government agencies to pose a risk to human health;
- a requirement for the advisory committee to study whether the drug supply chain of the identified prescription drugs would be disrupted in the event of a geopolitical conflict;
- a requirement for the advisory committee to produce an initial report on the identified prescription drugs;
- provisions setting out the required contents of the initial report and a deadline for its submission;
- an authorization for the advisory committee to conduct additional investigations and produce additional reports on the identified prescription drugs as the committee determines necessary; and
- definitions of "drug supply chain" and "company subject to the jurisdiction of a foreign adversary."

The introduced required the initial critical infrastructure protection report to develop strategies to minimize the damage to Texas if a malicious act succeeds in damaging critical infrastructure, while the substitute requires such strategies regarding damage to critical infrastructure and other assets.

The substitute includes any research, data, reports, findings, and other information provided to the advisory committee among the information that must be maintained by the office of the governor and is confidential and excepted from the public availability requirement of state public information law, whereas the introduced did not.