

By: Swinford, Escobar, Christian, Woolley,
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H.B. No. 13

Substitute the following for H.B. No. 13:

By: Cook of Navarro

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A BILL TO BE ENTITLED

1 AN ACT

2 relating to homeland security issues, including border security
3 issues.

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

5 SECTION 1. Section 418.042(a), Government Code, is amended
6 to read as follows:

7 (a) The division shall prepare and keep current a
8 comprehensive state emergency management plan. The plan may
9 include:

10 (1) provisions for prevention and minimization of
11 injury and damage caused by disaster;

12 (2) provisions for prompt and effective response to
13 disaster;

14 (3) provisions for emergency relief;

15 (4) provisions for energy emergencies;

16 (5) identification of areas particularly vulnerable
17 to disasters;

18 (6) recommendations for zoning, building
19 restrictions, and other land-use controls, safety measures for
20 securing mobile homes or other nonpermanent or semipermanent
21 structures, and other preventive and preparedness measures
22 designed to eliminate or reduce disasters or their impact;

23 (7) provisions for assistance to local officials in
24 designing local emergency management plans;

1 (8) authorization and procedures for the erection or
2 other construction of temporary works designed to protect against
3 or mitigate danger, damage, or loss from flood, fire, or other
4 disaster;

(10) organization of manpower and channels of assistance;

10 (11) coordination of federal, state, and local
11 emergency management activities;

12 (12) coordination of the state emergency management
13 plan with the emergency management plans of the federal government;

14 (13) coordination of federal and state energy
15 emergency plans; [and]

16 (14) the provision of necessary project management
17 resources to support the Texas Data Exchange; and

18 (15) other necessary matters relating to disasters.

19 SECTION 2. Section 418.043, Government Code, is amended to
20 read as follows:

21 Sec. 418.043. OTHER POWERS AND DUTIES. The division shall:

22 (1) determine requirements of the state and its
23 political subdivisions for food, clothing, and other necessities in
24 event of a disaster;

25 (2) procure and position supplies, medicines,
26 materials, and equipment;

27 (3) adopt standards and requirements for local and

1 interjurisdictional emergency management plans;

2 (4) periodically review local and interjurisdictional

3 emergency management plans;

4 (5) coordinate deployment of mobile support units;

5 (6) establish and operate training programs and

6 programs of public information or assist political subdivisions and

7 emergency management agencies to establish and operate the

8 programs;

9 (7) make surveys of public and private industries,

10 resources, and facilities in the state that are necessary to carry

11 out the purposes of this chapter;

12 (8) plan and make arrangements for the availability

13 and use of any private facilities, services, and property and

14 provide for payment for use under terms and conditions agreed on if

15 the facilities are used and payment is necessary;

16 (9) establish a register of persons with types of

17 training and skills important in disaster mitigation,

18 preparedness, response, and recovery;

19 (10) establish a register of mobile and construction

20 equipment and temporary housing available for use in a disaster;

21 (11) prepare, for issuance by the governor, executive

22 orders and regulations necessary or appropriate in coping with

23 disasters;

24 (12) cooperate with the federal government and any

25 public or private agency or entity in achieving any purpose of this

26 chapter and in implementing programs for disaster mitigation,

27 preparation, response, and recovery; [and]

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(13) provide to the Department of Public Safety the necessary project management resources, including operational support and personnel, to support the Texas Data Exchange; and

(14) do other things necessary, incidental, or appropriate for the implementation of this chapter.

SECTION 3. Section 421.002, Government Code, is amended to
as follows:

8 Sec. 421.002. STATE OFFICE OF HOMELAND SECURITY; HOMELAND
9 SECURITY STRATEGY. (a) The State Office of Homeland Security is in
10 the office of the governor. The governor shall direct homeland
11 security in this state through the State Office of Homeland
12 Security and shall develop a statewide homeland security strategy
13 that improves the state's ability to:

- (1) detect and deter threats to homeland security;
- (2) respond to homeland security emergencies; and
- (3) recover from homeland security emergencies.

(b) The State Office of Homeland Security [~~governor's
and security strategy~~] shall coordinate homeland security
activities among and between local, state, and federal agencies and
the private sector.

21 (c) The governor's homeland security strategy [and] must
22 include specific plans for:

23 (1) intelligence gathering and analysis;
24 (2) information sharing;
25 (3) reducing the state's vulnerability to homeland
26 security emergencies;

27 (4) protecting critical infrastructure;

1 (5) protecting the state's international border,
2 ports, and airports;

3 (6) detecting, deterring, and defending against
4 terrorism, including cyber-terrorism and biological, chemical, and
5 nuclear terrorism;

6 (7) positioning equipment, technology, and personnel
7 to improve the state's ability to respond to a homeland security
8 emergency;

9 (8) establishing and directing the Texas Fusion
10 [~~Infrastructure Protection Communications~~] Center and giving the
11 center certain forms of authority to implement the governor's
12 homeland security strategy; [and]

13 (9) using technological resources to:

14 (A) facilitate the interoperability of
15 government technological resources, including data, networks, and
16 applications;

17 (B) coordinate the warning and alert systems of
18 state and local agencies;

19 (C) incorporate multidisciplinary approaches to
20 homeland security; and

21 (D) improve the security of governmental and
22 private sector information technology and information resources;
23 and

1 (d) [(-e)] The governor's homeland security strategy must
2 complement and operate in coordination with the federal homeland
3 security strategy.

4 SECTION 4. Subchapter A, Chapter 421, Government Code, is
5 amended by adding Section 421.0025 to read as follows:

6 Sec. 421.0025. BORDER SECURITY COUNCIL. (a) The Border
7 Security Council consists of members appointed by the governor.

8 (b) The Border Security Council shall develop and recommend
9 to the State Office of Homeland Security performance standards,
10 reporting requirements, audit methods, and other procedures to
11 ensure that funds allocated by the State Office of Homeland
12 Security for purposes related to security at or near this state's
13 international border are used properly and that the recipients of
14 the funds are accountable for the proper use of the funds.

15 (c) The Border Security Council shall advise the State
16 Office of Homeland Security regarding the allocation of funds by
17 the office for purposes related to security at or near this state's
18 international border. Recommendations relating to the allocation
19 of those funds must be made by a majority of the members of the
20 council.

21 (d) The governor shall designate one member of the Border
22 Security Council as the chair. The chair shall arrange meetings of
23 the Border Security Council at times determined by the members of
24 the council.

25 (e) The meetings of the Border Security Council are subject
26 to the requirements of Chapter 551 to the same extent as similar
27 meetings of the Public Safety Commission. The plans and

1 recommendations of the Border Security Council are subject to the
2 requirements of Chapter 552 to the same extent as similar plans and
3 recommendations of the Department of Public Safety of the State of
4 Texas.

5 (f) Service on the Border Security Council by a state
6 officer or employee or by an officer or employee of a local
7 government is an additional duty of the member's office or
8 employment.

9 (g) Chapter 2110 does not apply to the Border Security
10 Council.

11 SECTION 5. Section 421.003, Government Code, is amended to
12 read as follows:

13 Sec. 421.003. CRIMINAL INTELLIGENCE INFORMATION; TEXAS
14 DATA EXCHANGE. (a) The Department of Public Safety of the State of
15 Texas is:

16 (1) the repository in this state for the collection of
17 multijurisdictional criminal intelligence information that is
18 about terrorist activities or otherwise related to homeland
19 security activities; and

20 (2) the state agency that has primary responsibility
21 to analyze and disseminate that information.

22 (b) The Department of Public Safety of the State of Texas
23 shall oversee the Texas Data Exchange and all related information.

24 SECTION 6. Subchapter A, Chapter 421, Government Code, is
25 amended by adding Section 421.005 to read as follows:

26 Sec. 421.005. LEGISLATIVE OVERSIGHT COMMITTEE. (a) The
27 legislative oversight committee on homeland security and border

1 security consists of:

2 (1) the chair of the House Committee on Border and
3 International Affairs;

4 (2) the chair of the House Committee on Defense
5 Affairs and State-Federal Relations;

6 (3) the chair of the House Committee on State Affairs;

7 (4) the chair of the Senate Committee on International
8 Relations and Trade;

9 (5) the chair of the Senate Committee on State
10 Affairs;

11 (6) the chair of the Senate Committee on
12 Transportation and Homeland Security;

13 (7) two additional members of the house of
14 representatives appointed by the speaker of the house of
15 representatives; and

16 (8) two additional members of the senate appointed by
17 the lieutenant governor.

18 (b) The members of the oversight committee appointed under
19 Subsections (a)(7) and (8) serve at the will of the appointing
20 officer.

21 (c) The speaker of the house of representatives and the
22 lieutenant governor shall each designate a cochair from among the
23 committee members.

24 (d) The committee shall meet initially at the joint call of
25 the cochairs and the committee shall subsequently hold meetings and
26 public hearings at the call of the cochairs.

27 (e) The committee shall monitor homeland security and

1 border security issues in this state, including the implementation
2 of laws relating to homeland security and border security. The
3 committee shall issue a report to the legislature not later than
4 December 1 of each even-numbered year.

5 SECTION 7. Section 421.071, Government Code, is amended to
6 read as follows:

7 Sec. 421.071. COOPERATION AND ASSISTANCE; COMPLIANCE WITH
8 APPLICABLE LAW. (a) A state or local agency that performs a
9 homeland security activity or a nongovernmental entity that
10 contracts with a state or local agency to perform a homeland
11 security activity shall cooperate with and assist the office of the
12 governor, the Homeland Security Council, the Texas Fusion
13 [Infrastructure Protection Communications] Center, and the
14 National Infrastructure Protection Center in the performance of
15 their duties under this chapter and other state or federal law.

16 (b) A state governmental entity or political subdivision
17 may not adopt a rule, policy, or ordinance under which the state
18 governmental entity or political subdivision will:

19 (1) not fully enforce state or federal criminal law
20 relating to drugs, including Chapters 481 and 483, Health and
21 Safety Code;

22 (2) refuse to take an action that is authorized under 8
23 U.S.C. Section 1252c and permitted under state law; or

24 (3) violate 8 U.S.C. Section 1324.

25 (c) If the staff of the office of the attorney general
26 determines that a state governmental entity or political
27 subdivision has violated Subsection (b), the state governmental

1 entity or political subdivision shall promptly forfeit and repay to
2 the appropriate entity all funds granted to the state governmental
3 entity or political subdivision for purposes related to homeland
4 security, including border security. The attorney general may stay
5 the duty to repay pending the outcome of an appeal under Subsection
6 (d).

7 (d) Not later than the 21st day after the date of receiving
8 notice of the determination, a state governmental entity or
9 political subdivision may appeal a determination under Subsection
10 (c) to the attorney general. An appeal under this subsection is a
11 contested case under Chapter 2001. An administrative law judge
12 employed by the State Office of Administrative Hearings shall
13 conduct the contested case hearing.

14 SECTION 8. Section 421.072, Government Code, is amended by
15 amending Subsection (a) and adding Subsections (d), (e), and (f) to
16 read as follows:

17 (a) The State Office of Homeland Security, with the advice
18 of the Border Security Council, [office of the governor] shall:

19 (1) allocate available federal and state grants and
20 other funding related to homeland security to state and local
21 agencies and defense base development authorities created under
22 Chapter 379B, Local Government Code, that perform homeland security
23 activities;

24 (2) periodically review the grants and other funding
25 for appropriateness and compliance, including compliance with this
26 section, Section 421.071, and Articles 2.13(d) and (e), Code of
27 Criminal Procedure;

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1 (3) designate state administering agencies to
2 administer all grants and other funding to the state related to
3 homeland security; and

4 (4) measure the effectiveness of the homeland security
5 grants and other funding.

6 (d) The governor may allocate funds as necessary to assist
7 state and local law enforcement agencies to acquire additional
8 personnel, equipment, and other operational support that will
9 enable state and local law enforcement agencies to better perform
10 homeland security activities, including activities related to
11 border security or law enforcement emergencies.

20 (f) Not later than the 21st day after the date of receiving
21 notice of the determination, a state or local agency may appeal a
22 determination under Subsection (e) to the attorney general. An
23 appeal under this subsection is a contested case under Chapter
24 2001. An administrative law judge employed by the State Office of
25 Administrative Hearings shall conduct the contested case hearing.

26 SECTION 9. The heading to Subchapter E, Chapter 421,
27 Government Code, is amended to read as follows:

SUBCHAPTER E. TEXAS FUSION [~~INFRASTRUCTURE PROTECTION~~
~~COMMUNICATIONS~~] CENTER

3 SECTION 10. Section 421.081, Government Code, is amended to
4 read as follows:

5 Sec. 421.081. FACILITIES AND ADMINISTRATIVE SUPPORT. The
6 Department of Public Safety of the State of Texas at the request of
7 the governor shall provide facilities and administrative support
8 for the Texas Fusion [~~Infrastructure Protection Communications~~]
9 Center.

10 SECTION 11. Section 370.003, Local Government Code, is
11 amended to read as follows:

12 Sec. 370.003. MUNICIPAL OR COUNTY POLICY REGARDING
13 [ENFORCEMENT OF] DRUG LAWS OR CERTAIN LAWS RELATING TO IMMIGRATION.
14 The governing body of a municipality, the commissioners court of a
15 county, or a sheriff, municipal police department, municipal
16 attorney, county attorney, district attorney, or criminal district
17 attorney may not adopt a policy under which the entity will:

24 SECTION 12. Chapter 370, Local Government Code, is amended
25 by adding Section 370.004 to read as follows:

26 Sec. 370.004. PERFORMANCE OF IMMIGRATION OFFICER
27 FUNCTIONS. Notwithstanding any other law, a political subdivision

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1 of this state may enter into an agreement under Section 287(g),
2 Immigration and Nationality Act (8 U.S.C. Section 1357(g)), to
3 perform a function of an immigration officer.

4 SECTION 13. The heading to Chapter 370, Local Government
5 Code, is amended to read as follows:

6 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [MUNICIPAL AND
7 COUNTY] HEALTH AND PUBLIC SAFETY AFFECTING MORE THAN ONE TYPE OF
8 LOCAL GOVERNMENT

9 SECTION 14. Article 2.13, Code of Criminal Procedure, is
10 amended by adding Subsections (d) and (e) to read as follows:

18 (e) It is the duty of each peace officer to report to the law
19 enforcement agency that appoints or employs the peace officer the
20 commission of a federal crime or a conspiracy to commit a federal
21 crime if the officer has knowledge of the crime or conspiracy. If a
22 peace officer reports the commission of a crime under this
23 subsection, it is the duty of the law enforcement agency to report
24 that information to the State Office of Homeland Security.

25 SECTION 15. The House Committee on Corrections may conduct
26 a study to determine whether it would add efficiency to the state's
27 criminal justice system, in terms of time and money, for this state

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1 or for certain political subdivisions of this state, to seek one or
2 more agreements under Section 287(g), Immigration and Nationality
3 Act (8 U.S.C. Section 1357(g)).

4 SECTION 16. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect September 1, 2007.