

- SUBJECT:** Allowing state, local entities to seek aid from disaster contingency fund
- COMMITTEE:** Defense Affairs and State-Federal Relations — favorable, without amendment
- VOTE:** 6 ayes — Corte, Noriega, Garcia, Hodge, Merritt, Raymond
0 nays
1 present not voting — Herrero
2 absent — Escobar, Moreno
- WITNESSES:** For — (*Registered, but did not testify:* Bruce D. Glasscock, City of Plano; Mark Mendez, Tarrant County Commissioners Court; David Pore, City of Lufkin Economic Development Corp.)
Against — None
On — Jack Colley, Governor’s Division of Emergency Management, Texas Department of Public Safety (*Registered, but did not testify:* Denita Powell, Department of State Health Services)
- BACKGROUND:** Government Code, sec. 418.073 provides for instances in which regular appropriations do not cover the costs that state and local agencies incurred in responding to a disaster. The governor may provide funding from the disaster contingency fund with the concurrence of the rest of the disaster emergency funding board, composed of the lieutenant governor, the commissioner of insurance, the commissioner of the Department of Human Services, and the director of the Governor’s Division of Emergency Management (GDEM).
- DIGEST:** HB 2694 would amend Government Code, sec. 418.073 to require that GDEM administer the disaster contingency fund, removing the role of the disaster emergency funding board. It would allow a state agency, local government, or other eligible entity to request money from the fund to pay for extraordinary costs incurred in employing preventive measures taken before or during an emergency and costs incurred in repairing damage, if the damage was suffered during a disaster for which:

- the presiding officer of a municipal or county government had declared a local state of disaster for affected areas within their respective jurisdictions;
- the governor also had declared a state of disaster for the affected county or counties; and
- the federal government had not declared the affected area a disaster that would be eligible for federal aid.

GDEM would be required to develop and implement rules and procedures for providing aid from the fund.

The bill would specify the Legislature's intent that state and local agencies' first recourse in responding to an emergency or disaster should be to their regularly appropriated funds.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

Texas has seen an unprecedented level of emergencies and disasters in the last two years, and HB 2694 would aid those agencies and local governments whose resources and personnel have been stretched thin by these demands. Local governments typically have qualified for federal aid in fewer than 10 percent of major incidents, as categorized by the state, and the bill would provide a way for them to be reimbursed for unexpected response costs and repairs.

In an 18-month period, Texas has had to corral resources to handle response efforts to Hurricanes Rita and Katrina, floods in El Paso, and wildfires across the state – an unprecedented chain of catastrophic events. This month, 137 of the state's 254 counties are eligible for federal disaster aid because of drought conditions. Although under certain conditions, some state agencies and local governments can receive federal aid, this can be uncertain because a declaration often occurs well after the event, and some activities are ineligible for federal aid.

Local governments bear large costs in an emergency, and smaller and medium-sized counties might not have the financial ability or resources to properly respond. These entities must do everything from rescuing people from their homes to cleaning up storm debris. They use their own facilities, such as schools, for shelter and their buses for evacuation, and

generally are required to pay public employees overtime for their work. For an extended emergency, especially one requiring a local government to house and feed displaced people, this burden sometimes can be beyond the means of an entity that has no ability to deficit spend or take money from some other fund.

The reimbursement process for state agencies is a lengthy process, both on the state and federal level. Some agencies have yet to be reimbursed by the state for expenditures on disasters that occurred more than three years ago. While the agencies clear spending with appropriate authorities when emergency action would exceed current budgetary limitations, they always are inclined to respond and would never use budgetary concerns as a reason to curtail any response efforts. Additionally, by granting GDEM the authority to vet expenditures, the bill would establish a way for the state to curtail any spending that could be considered excessive. This process also would allow the Governor's Office to consider what funds were available instead of instantly allocating funds.

By using money designated for other purposes to cover costs for emergencies, state agencies and local governments wind up hindering their own efforts to plan and prepare for future emergencies. By not properly funding these agencies today, the state only is making tomorrow's rescue efforts more expensive.

OPPONENTS
SAY:

This bill is unnecessary and would have little meaning until the Legislature solves the bigger problem — appropriating money into the disaster contingency fund. Although funding has been included to reimburse the Texas Forest Service \$44.7 million in the House engrossed version of HB 15 by Chisum, the supplemental appropriations bill, the House has chosen to appropriate in its version of the fiscal 2008-09 budget, HB 1 by Chisum, only \$14.2 million of the \$50 million the governor was seeking for the disaster contingency fund.

OTHER
OPPONENTS
SAY:

This bill should not give the Governor's Office sole authority to determine which expenditures would be reimbursed. Such a role could politicize the process if, for example, the governor sought to reimburse funds expended in response to a disaster in a more populous area in lieu of paying agencies back for work done in a rural region.

NOTES:

The Legislative Budget Board estimates the bill would have no fiscal impact on general revenue related funds but likely would require the

expenditure of \$107,160, the remainder of the Disaster Contingency Fund, in fiscal 2008.

A related bill, HB 2405 by Hardcastle, which would require the governor to pay, from the disaster contingency fund, the costs incurred by any state agency if the governor deployed the agency's personnel or other resources to respond to an emergency or natural disaster, was on the May 1 General State Calendar.