

BILL ANALYSIS

Senate Research Center
81R21913 CAE-F

H.B. 1861
By: Eiland, et al. (Carona)
Jurisprudence
5/12/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Over the last two years natural disasters have greatly impacted Texas. In the aftermath of Hurricane Ike, 2.5 million people lacked power, basic communications were halted, and an emergency evacuation was in order for many areas. Under these circumstances, courts had difficulty maintaining schedules and meeting certain statutory deadlines.

This bill amends Chapter 418 (Emergency Management), Government Code, to signify that the judiciary has a role in emergency preparedness. It amends Section 74.093 (Rules of Administration), Government Code, to permit those rules to provide for a coordinated response for the transaction of essential judicial functions in the event of a disaster. It additionally acknowledges the inherent authority of the Supreme Court of Texas, in the event of a disaster, to suspend procedures to conduct any court proceeding affected by a disaster.

H.B. 1861 amends current law relating to the operation and administration of the judiciary in the event of a disaster.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 3 (Section 418.016, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 74.093(c), Government Code, to authorize rules to provide for certain duties, including a coordinated response for the transaction of essential judicial functions in the event of a disaster. Makes nonsubstantive changes.

SECTION 2. Amends Section 418.002, Government Code, as follows:

Sec. 418.002. PURPOSES. Sets forth the purposes of this chapter, including clarifying and strengthening the roles of the governor, state agencies, the judicial branch of state government, and local governments in prevention of, preparation for, response to, and recovery from disasters.

SECTION 3. Amends Section 418.016, Government Code, as follows:

Sec. 418.016. SUSPENSION OF PROCEDURAL LAWS AND RULES. (a) Creates this subsection from existing text.

(b) Authorizes the Supreme Court of Texas (supreme court), notwithstanding any other law, by rule or order, or on a case-by-case basis, to exercise the court's inherent authority, with or without the consent of the parties, to suspend procedures for the conduct of any court proceeding affected by a disaster. Authorizes the supreme court to provide abatements and stays; toll limitations; toll or modify other filings and service deadlines; provide for hearings or trials at locations other than the county of suit; provide for courts of appeal to accept filings and hear arguments in remote courthouses; and provide for alternative notice requirements.

(c) Authorizes the court of criminal appeals, if a disaster prevents the supreme court from acting under Subsection (b), to act on behalf of the supreme court. Authorizes the chief justice of the supreme court and the presiding judge of the court of criminal appeals, if the disaster prevents both the supreme court and the court of criminal appeals from acting under Subsection (b), to act on behalf of the judicial branch of state government.

SECTION 4. Effective date: upon passage or September 1, 2009.