

BILL ANALYSIS

Senate Research Center
82R10540 SJM-D

S.B. 1461
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International Relations & Trade
4/11/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Over the last several years, six hurricanes have hit Texas, including Katrina and Rita in 2005, as well as Dolly and Ike in 2008. As the Sunset Advisory Commission (SAC) reported in 2010, these major storms caused significant damage to housing and infrastructure while also causing the loss of lives along the Gulf Coast. The federal government provided Texas critical assistance to address the storm damage and help impacted communities in the form of emergency, short- and long-term assistance.

As SAC reported, while there are three phases of disaster response, the administration of these phases is "split among several agencies and coordinated through the Office of the Governor." The various SAC findings include: "the State has not effectively planned for the long-term recovery from major disasters;" "failure to plan slows the pace of recovery, increasing the harms suffered by communities and individuals;" and "to be successful in recovery efforts, Texas needs to take action to address structural and administrative roadblocks to recovery before the next storm hits."

SAC further reported that currently "state law does not require state agencies or communities to plan for long-term recovery." The failure to plan not only slows recovery efforts but also "inhibits communities' ability to return to normal following a storm." Although "the Sunset staff found problems at all levels contributed to the delays experienced by communities," it limited its report to the housing agency's efforts in housing construction following disasters although local communities and the state's rural agency "face similar challenges in administering money for infrastructure projects."

S.B. 1461 builds on feedback and findings similar to those of SAC received by the Senate Committee on International Relations and Trade during the interim and provides for better coordination among state agencies involved in disaster recovery in order to improve the state's response in assisting local communities impacted by disasters.

As proposed, S.B. 1461 amends current law relating to the creation of the disaster reconstruction coordination office within the governor's office and creates the disaster contingency account.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive director of the disaster reconstruction coordination office within the Office of the Governor in SECTION 1 (Section 423.052, Government Code) of this bill.

Rulemaking authority is expressly granted to a conservator appointed under Subchapter D of this chapter in SECTION 1 (Section 423.153, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 4, Government Code, by adding Chapter 423, as follows:

CHAPTER 423. DISASTER RECONSTRUCTION COORDINATION OFFICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 423.001. DEFINITIONS. Defines, in this chapter, "conservator," "disaster," "executive director," and "office."

Sec. 423.002. DISASTER RECONSTRUCTION COORDINATION OFFICE. Provides that the disaster reconstruction coordination office (office) is an office within the office of the governor.

Sec. 423.003. SUNSET PROVISION. Provides that the office is subject to Chapter 325 (Sunset Law). Provides that, unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2021.

[Reserves Sections 423.004-423.050 for expansion.]

SUBCHAPTER B. ADMINISTRATION

Sec. 423.051. EXECUTIVE DIRECTOR. (a) Requires the governor to appoint an executive director of the office (executive director).

(b) Requires the executive director to have:

- (1) experience in the administration of a state or federal program; and
- (2) demonstrated executive and organizational abilities.

(c) Provides that the executive director serves at the pleasure of the governor.

Sec. 423.052. GENERAL DUTIES OF EXECUTIVE DIRECTOR. (a) Requires the executive director, under the direction of the governor, to manage the affairs of the office, including:

- (1) establishing office policy;
- (2) implementing legislation that affects the office;
- (3) reviewing and commenting on the office's budget;
- (4) conducting investigations and studies, as appropriate;
- (5) acting as ombudsman for governmental agencies involved in reconstruction following a disaster in this state; and
- (6) developing long-range plans for the future goals and needs of the office.

(b) Authorizes the executive director to adopt rules as necessary to implement this chapter.

Sec. 423.053. STATE RECONSTRUCTION PLAN. Requires the executive director to examine state and federal programs relating to reconstruction following a disaster, including housing and infrastructure programs, to:

- (1) identify best practices for reconstruction following a disaster;
- (2) develop a coordinated state reconstruction plan that implements best practices identified under Subdivision (1); and
- (3) work with federal, state, and local governmental entities to:

(A) resolve infrastructure, capacity, and statutory problems that inhibit the use of reconstruction resources following a disaster; and

(B) reduce inhibitive regulations by improving communication and cooperation between those governmental entities.

Sec. 423.054. GIFTS, GRANTS, AND DONATIONS. Authorizes the executive director to solicit, accept, and receive a gift, grant, donation, or other thing of value from any public or private source for purposes of this chapter, in addition to money appropriated to the office.

Sec. 423.055. ANNUAL REPORT. Requires the executive director annually to prepare and submit a report to the governor regarding the office's activities.

Sec. 423.056. AGENCY LIAISONS. (a) Requires the heads of each of the following state agencies to designate an officer or employee of the agency who is a deputy executive director or person of equivalent or higher authority at the agency to serve as the agency's liaison to the office:

- (1) the Texas Department of Rural Affairs;
- (2) the Texas Water Development Board;
- (3) the Texas Commission on Environmental Quality;
- (4) the Texas Department of Housing and Community Affairs;
- (5) the Health and Human Services Commission;
- (6) the Parks and Wildlife Department;
- (7) the Texas Department of Transportation;
- (8) the Department of Public Safety of the State of Texas;
- (9) the Office of the Secretary of State;
- (10) the Department of Agriculture;
- (11) the Office of the Comptroller of Public Accounts; and
- (12) the Texas Division of Emergency Management.

(b) Provides that this section does not authorize the creation of a new position at a state agency.

(c) Requires an agency liaison to advise the executive director and make recommendations regarding disaster reconstruction across the different regions of this state.

[Reserves Sections 423.057-423.100 for expansion.]

SUBCHAPTER C. TASK FORCE

Sec. 423.101. ESTABLISHMENT OF TASK FORCE. (a) Requires the executive director to appoint a task force composed of the following members:

- (1) at least one representative from each state agency, represented by an agency liaison under Section 423.056, who is a deputy executive director or person of equivalent or higher authority at the agency;

(2) two representatives of organizations that represent the interests of communities that have been impacted by a disaster in the five years prior to the date the appointment is made;

(3) two county officials from coastal counties;

(4) one member of a council of government that serves predominantly a rural region of this state;

(5) one member of a council of government that serves predominantly a metropolitan region of this state;

(6) two officials from small municipalities in this state; and

(7) two board members of nonprofit or community development organizations in this state.

(b) Requires the executive director, in making appointments, to ensure that different geographic regions of this state are fairly represented.

(c) Provides that the members of the task force serve at the pleasure of the executive director.

(d) Requires the executive director to serve as the presiding officer of the task force.

(e) Provides that Chapter 2110 (State Agency Advisory Committees) does not apply to the task force.

Sec. 423.102. DUTIES OF TASK FORCE. Requires the task force to:

(1) advise the executive director and make recommendations regarding reconstruction following a disaster across the different regions of this state; and

(2) assist the executive director in developing the state reconstruction plan required by Section 423.053.

[Reserves Sections 423.103-423.150 for expansion.]

SUBCHAPTER D. NATURAL DISASTER RECOVERY CONSERVATORSHIP

Sec. 423.151. DEFINITION. Defines, in this subchapter, "state agency."

Sec. 423.152. APPOINTMENT OF CONSERVATOR. (a) Authorizes the governor, with the advice and consent of the senate and in the manner described by Subchapter B (Conservators), Chapter 2104 (Conservatorship As A Result of Fiscal Mismanagement), for the purpose of efficiently and effectively administering state or federal emergency funds in response to a disaster, to appoint a conservator of a state agency that has been charged by the governor with the administration of state or federal disaster recovery funds at any time during the seven years prior to the appointment of the conservator.

(b) Authorizes the governor to appoint the executive director to serve as a conservator under this subchapter.

Sec. 423.153. GENERAL POWERS AND DUTIES OF CONSERVATOR. (a) Requires a conservator, in addition to the powers of a conservator under Section 2104.023 (Conservatorship Powers and Duties), to assume the powers and duties of the officers responsible for policy direction of the state agency subject to the conservatorship,

to the extent that those powers and duties relate to the administration of emergency funds following a disaster.

(b) Authorizes the conservator, subject to Subsection (d), to direct the use of funds from the disaster contingency account established under Subchapter E and any other available funding sources to reconstruction efforts of the state agency subject to the conservatorship.

(c) Prohibits the conservator from using more than 20 percent of the total amount of funds available in the disaster contingency account for reconstruction efforts in response to a single declared disaster.

(d) Authorizes the conservator to adopt and enforce rules as necessary to administer the conservatorship for which the conservator is appointed.

Sec. 423.154. REPORT BY CONSERVATOR. (a) Requires a conservator to report to the governor on the conservatorship not later than the 60th day after the date on which the governor appoints the conservator and at the end of each subsequent 60-day period until the conservatorship is dissolved.

(b) Requires that a report under this section include:

(1) all measures taken to ensure the efficient and effective use of resources directed toward reconstruction in response to the disaster for which the conservator was appointed; and

(2) an estimate of the progress the conservator has made in completing reconstruction efforts at the state agency subject to the conservatorship.

Sec. 423.155. DURATION OF CONSERVATORSHIP. (a) Provides that a conservatorship begins on the date that the governor appoints the conservator.

(b) Provides that a conservatorship continues in effect until the earlier of:

(1) the governor's termination of the state of disaster under Section 418.014 (Declaration of State of Disaster); or

(2) the conservator's finding that reconstruction efforts following the disaster are completed at the agency subject to the conservatorship.

[Reserves Sections 423.156-423.200 for expansion.]

SUBCHAPTER E. DISASTER CONTINGENCY ACCOUNT

Sec. 423.201. DISASTER CONTINGENCY ACCOUNT. (a) Creates the disaster contingency account in the general revenue fund.

(b) Provides that the account is composed of:

(1) legislative appropriations;

(2) gifts, grants, donations, and matching funds received under Section 423.054; and

(3) other money required by law to be deposited in the account.

(c) Requires that income from the account be credited to the account. Provides that Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments) do not apply to the account.

(d) Authorizes the legislature to appropriate money from the disaster contingency account created under Subsection (a) only for purposes authorized under this chapter.

SECTION 2. (a) Requires the governor to appoint the executive director, as required by Section 423.051, Government Code, as added by this Act, not later than October 1, 2011.

(b) Provides that not later than January 1, 2012:

(1) the executive director of the office is required to appoint the members of the task force as required by Section 423.101, Government Code, as added by this Act; and

(2) the heads of each of the state agencies listed in Section 423.056, Government Code, as added by this Act, are required to designate agency liaisons as required by that section.

(c) Requires the executive director to submit the initial report required by Section 423.055, Government Code, as added by this Act, not later than September 1, 2012.

SECTION 3. Authorizes the governor, notwithstanding Section 4 of this Act, to appoint a conservator under Subchapter D, Chapter 423, Government Code, as added by this Act, for purposes of reconstruction related to a natural disaster that occurred on or after September 1, 2004.

SECTION 4. Effective date: September 1, 2011.