

BILL ANALYSIS

Senate Research Center
84R30387 KKR-D

C.S.H.B. 1832
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Business & Commerce
5/19/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

State agencies in Texas must be prepared to ensure the continuing performance of critical government functions under all conditions, including during an emergency that disrupts normal operations. Currently, the State Office of Risk Management is required to work with each state agency to develop an agency-level business continuity plan. Concerns have been raised about the lack of confidentiality protections for such plans, which tend to contain sensitive information that could expose state agency vulnerabilities. C.S.H.B. 1832 seeks to protect the confidentiality of this sensitive information.

C.S.H.B. 1832 amends current law relating to the requirements for and confidentiality of state agency continuity of operations plans.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 412.011(f) and (g), Labor Code, as follows:

(f) Requires the State Office of Risk Management (SORM) to work with each state agency to develop an agency-level continuity of operations plan, rather than an agency-level business continuity plan, under Section 412.054.

(g) Requires SORM to assist each agency subject to Section 412.054 guidelines and models for each element listed in Section 412.054 as necessary to ensure that:

(1) agency staff understands each element of the continuity of operations plan, rather than the business continuity plan, developed under Section 412.054; and

(2) each agency provides training and conducts testing and exercises that prepare the agency for implementing the plan, rather than each agency practices implementation of the plan.

SECTION 2. Amends Section 412.0128, Labor Code, as follows:

Sec. 412.0128. CONFIDENTIALITY OF INFORMATION. (a) Creates this subsection from existing text. Provides that information in or derived from a workers' compensation claim file regarding an employee, and information in or derived from a risk management review related to facility security or continuity of operations, rather than continuity of operations of the Texas military forces, is confidential and is exempt from disclosure under Chapter 552 (Public Information), Government Code, and may not be disclosed by SORM except as provided by Subsection (b), other provisions of this subchapter, or other law. Provides that classified or sensitive information, rather than sensitive information of the Texas military forces, specifically preempted from disclosure by federal law retains the confidentiality protection provided by this section for all purposes, including disclosure to SORM.

(b) Provides that forms, standards, and other instructional, informational, or planning materials adopted by SORM to provide guidance or assistance to a state agency in developing a continuity of operations plan under Section 412.054 are public information subject to disclosure under Chapter 552, Government Code.

SECTION 3. Amends Section 412.032, Labor Code, as follows:

Sec. 412.032. BOARD'S REPORT TO LEGISLATURE. (a) Requires the risk management board (board), based on the recommendations of the director, to report to each legislature relating to:

- (1)-(4) Makes no change to these subdivisions; and
 - (5) the continuity of operations plan, rather than the business continuity plan, developed by state agencies under Section 412.054.
- (b) Requires that the report include:
- (1)-(4) Makes no change to these subdivisions; and
 - (5) an evaluation of continuity of operations plans, rather than business continuity plans, developed by state agencies under Section 412.054 for completeness and viability.

SECTION 4. Amends Section 412.054, Labor Code, as follows:

Sec. 412.054. New heading: CONTINUITY OF OPERATIONS PLAN. (a) Requires each state agency to work with SORM to develop an agency-level continuity of operations plan, rather than business continuity plan, that outlines procedures to keep the agency operational in case of disruptions to production, finance, administration, or other essential operations.

- (b) Requires that a continuity of operations plan that meets the requirements of this section be submitted by each state agency that is, rather than provides that a business continuity plan is considered to meet the requirements of this section if the agency forwards the plan to SORM for review and the agency is:
- (1) and (2) Makes nonsubstantive changes; or
 - (3) subject to this chapter or Chapter 501 (Workers' Compensation Insurance Coverage for State Employees, Including Employees Under the Direction or Control of the Board of Regents of Texas Tech University).
- (c) Provides that the following information, except as otherwise provided by this section, is confidential and is exempt from disclosure under Chapter 552, Government Code:
- (1) a continuity of operations plan developed under this section; and
 - (2) any records written, produced, collected, assembled, or maintained as part of the development or review of a continuity of operations plan under this section.
- (d) Provides that forms, standards, and other instructional, informational, or planning materials adopted by SORM to provide guidance or assistance to a state agency in developing a continuity of operations plan under this section are public information subject to disclosure under Chapter 552, Government Code.

(e) Authorizes a state agency to disclose or make available information that is confidential under this section to another state agency, a governmental body, or a federal agency.

(f) Provides that disclosing information to another state agency, a governmental body, or a federal agency under this section does not waive or affect the confidentiality of that information.

SECTION 5. Amends Subchapter C, Chapter 552, Government Code, by adding Section 552.156, as follows:

Sec. 552.156. EXCEPTION: CONFIDENTIALITY OF CONTINUITY OF OPERATIONS PLAN. (a) Provides that the following information, except as otherwise provided by this section, is excepted from disclosure under this chapter:

(1) a continuity of operations plan developed under Section 412.054, Labor Code; and

(2) all records written, produced, collected, assembled, or maintained as part of the development or review of a continuity of operations plan developed under Section 412.054, Labor Code.

(b) Provides that forms, standards, and other instructional, informational, or planning materials adopted by SORM to provide guidance or assistance to a state agency in developing a continuity of operations plan under Section 412.054 are public information subject to disclosure under this chapter.

(c) Authorizes a governmental body to disclose or make available information that is confidential under this section to another governmental body or a federal agency.

(d) Provides that disclosing information to another governmental body or a federal agency under this section does not waive or affect the confidentiality of that information.

SECTION 6. Effective date: upon passage or September 1, 2015.