

BILL ANALYSIS

Senate Research Center
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S.B. 12
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas faces numerous emergency management concerns. The Division of Emergency Management of the Office of the Governor (GDEM) and state agencies have the task of collaborating and coordinating responsibilities during an emergency response. Many Texans would agree that the state has put forth significant efforts over the past disaster season and has made great strides in emergency management response. However, legislation is needed to address certain issues that affect the state's ability to provide emergency relief. These specific issues include evacuation and phased reentry, temporary home repairs, volunteer coordination and awareness, and agribusiness and public information awareness.

Current statute regarding emergency management is located in Chapter 418 (Emergency Management), Government Code. This chapter describes GDEM's mandatory responsibilities, such as determining available state resources in an emergency, assisting counties in emergency response, training county and municipal officials, and maintaining a registry of important facilities and equipment that may be used during an emergency. An enforcement mechanism does not exist for evacuation orders in the current statute. In addition, current law does not require implementation of a phased reentry plan into a declared disaster area. The Texas Department of Agriculture (TDA) is currently not required to prepare an emergency response plan for the agricultural community or business. Furthermore, agencies involved in emergency management are not currently required to disseminate information or report the effectiveness of their emergency response to the legislature.

As proposed, S.B. 12 authorizes county judges and mayors to have enforcement authority under a mandatory evacuation order. It also authorizes the governor to issue a mandatory evacuation order, but only with the agreement of a mayor or county judge. S.B. 12 requires agencies involved with emergency management to disseminate information about emergency preparedness and report annually to the legislature on emergency management activities. It also requires TDA to prepare an agriculture emergency response plan. S.B. 12 adds Sections 242.0395 (Registration With Texas Information and Referral Network) and 247.0275 (Registration With Texas Information and Referral Network) to the Health and Safety Code to require convalescent homes and assisted living facilities to register with the Texas Information and Referral Network and to inform residents and their families and guardians about evacuation assistance services.

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 Section 418.043, Government Code, as follows:

Sec. 418.043. OTHER POWERS AND DUTIES. Requires the division of emergency management in the office of the governor (GDEM) to follow certain procedures pertaining to emergency management, including cooperating with the Federal Emergency Management Agency to create uniform guidelines for acceptable home repairs following disasters and promote public awareness of the guidelines; cooperating with state agencies to include information on volunteering during a disaster in all state disaster preparation

information resources, including Internet websites; and establishing a liability awareness program for volunteers, including medical professionals. Makes nonsubstantive changes.

SECTION 2. Amends Subchapter C, Chapter 418, Government Code, by adding Section 418.050 as follows:

Sec. 418.050. PHASED REENTRY PLAN. (a) Requires GDEM to develop a phased reentry plan to govern the order in which particular groups of people are allowed to reenter areas previously evacuated because of a disaster or threat of disaster. Authorizes the plan to provide different reentry procedures for different types of disasters.

(b) Requires GDEM to consider giving priority under the phased reentry plan to public safety officials, utility employees, insurance claim adjusters, the media, and area residents. Requires the division to consider preauthorizing insurance claims adjusters to reenter evacuated areas as soon as practicable to begin processing claims.

(c) Requires GDEM, in consultation with representatives of affected industries, to develop a reentry credentialing process. Authorizes GDEM to include the credentialing process in the phased reentry plan or administer the credentialing process separately.

SECTION 3. Amends Subchapter H, Chapter 418, Government Code, by adding Sections 418.185, 418.189, 418.190, and 418.191, as follows:

Sec. 418.185. MANDATORY EVACUATION. (a) Provides that this section does not apply to a person who is authorized to be in an evacuated area, including a person who returns to the area under a phased reentry plan or reentry credentialing process under Section 418.050.

(b) Authorizes a county judge or mayor of a municipality who orders the evacuation of an area stricken or threatened by a disaster by order to compel persons who remain in the evacuated area to leave and authorize the use of reasonable force to remove persons from the area.

(c) Authorizes the governor and a county judge or mayor of a municipality who orders the evacuation of an area stricken or threatened by a disaster by a concurrent order to compel persons who remain in the evacuated area to leave and authorize the use of reasonable force to remove persons from the area.

(d) Provides that a person is civilly liable to a governmental entity, or a nonprofit agency cooperating with a governmental entity, that conducts a rescue on a person's behalf for the cost of the rescue effort if the person knowingly ignored a mandatory evacuation order under this section and engaged in an activity or course of action that a reasonable person would not have engaged in, or failed to take a course of action a reasonable person would have taken; the person's actions under this subsection placed the person or another person in danger; and a governmental rescue effort was undertaken on the person's behalf.

Sec. 418.189. DISASTER MANAGEMENT OUTREACH. Requires a state agency involved in disaster management to conduct outreach and disseminate information regarding disaster preparedness and recovery to the general public, including residents of affected areas, and issue an annual report to the legislature regarding those activities.

Sec. 418.190. AGRICULTURE EMERGENCY RESPONSE PLAN. (a) Requires the Texas Department of Agriculture (TDA) to prepare and keep current an agriculture emergency response plan. Requires the plan to include provisions for identifying and assessing necessary training, and providing information on recovery, relief, and assistance following a disaster.

(b) Requires TDA to include the plan developed under Subsection (a) in an annual report to the legislature.

Sec. 418.191. MEDICAL SPECIAL NEEDS VOLUNTEERS. (a) Requires an entity responsible for the care of individuals with special needs to develop and distribute information on volunteering in connection with a disaster.

(b) Requires GDEM to provide information to interested parties and the public regarding how volunteers can be identified and trained to help all groups of people, including those with special needs and those who are residents of assisted living facilities.

SECTION 4. Amends Subchapter B, Chapter 242, Health and Safety Code, by adding Section 242.0395 as follows:

Sec. 242.0395. REGISTRATION WITH TEXAS INFORMATION AND REFERRAL NETWORK. (a) Requires an institution licensed under this chapter to register with the Texas Information and Referral Network (network) under Section 531.0312 (Texas Information and Referral Network), Government Code, to assist the state in identifying persons needing assistance evacuating in a disaster or other emergency.

(b) Provides that the institution is not required to identify individual residents who may require assistance in evacuating in an emergency or to register individual residents with the network for evacuation assistance.

(c) Requires the institution to notify each resident and the resident's next of kin or guardian regarding how to register for evacuation assistance with the network.

SECTION 5. Amends Subchapter B, Chapter 247, Health and Safety Code, by adding Section 247.0275 as follows:

Sec. 247.0275. REGISTRATION WITH TEXAS INFORMATION AND REFERRAL NETWORK. (a) Requires an assisted living facility licensed under this chapter to register with the network under Section 531.0312, Government Code, to assist the state in identifying persons needing assistance evacuating in a disaster or other emergency.

(b) Provides that the assisted living facility is not required to identify individual residents who may require assistance in evacuating in an emergency or to register individual residents with the network for evacuation assistance.

(c) Requires the assisted living facility to notify each resident and the resident's next of kin or guardian regarding how to register for evacuation assistance with the network.

SECTION 6. Requires GDEM, not later than the 30th day after the effective date of this section, to issue a report to the legislature regarding the implementation of medical special needs plans in connection with Hurricane Ike, including identification, evacuation, transportation, shelter, care, and reentry during the period ending on the 30th day after the conclusion of the disaster. Requires the Department of State Health Services to cooperate in the preparation of the report.

SECTION 7. (a) Effective date: except as provided by Subsection (b) of this section, September 1, 2009.

(b) Effective date, Section 6: upon passage or September 1, 2009.