

SUBJECT: Continuing the Advisory Commission on State Emergency Communications

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 7 ayes — B. Turner, Keel, Berman, Gutierrez, Hupp, P. King, Najera
0 nays
2 absent — Carter, Driver

WITNESSES: For — Glen Hartman, Capitol Area Planning Council; Tom Reid, Houston Galveston Area Council of Government and Texas Association of Regional Councils of Government
Against — Tommy Blackwell, Travis County Sheriff’s Office; Dan Richards, Office of Sheriff Margo Frasier
On — Steve Hopson, Sunset Advisory Commission; Carey Spence, Advisory Commission on State Emergency Communications; Bob Kamm, Travis County Commissioners Court; Betty Voights, Capitol Area Planning Council

BACKGROUND: The Legislature created the Advisory Commission on State Emergency Communications (ACSEC) in 1987 to ensure that all parts of the state would have 9-1-1 service. That goal was met by 1997. Political subdivisions in Texas may implement 9-1-1 service in one of three ways: with home-rule authority (used by most of the larger cities), by creating an emergency communication district under Chapter 772 of the Health and Safety Code, and through ACSEC, which provides 9-1-1 service to 228 counties through 24 regional councils of government (COGs). The biggest cities that ACSEC serves are Austin, Corpus Christi, Beaumont, and Temple.
Besides helping local governments provide 9-1-1 service, ACSEC and the Texas Department of Health operate the state’s six regionally based poison-control information centers.
ACSEC is funded by four telephone fees. The Emergency Service Fee and Wireless Service Fee are assessed on local telephone service, while the 9-1-1 Equalization Surcharge and Poison Control Surcharge are assessed on

intrastate long-distance calls. The Emergency Service Fee goes directly to the 24 COGs. The Wireless Service Fee goes to ACSEC, which distributes it to local 9-1-1 authorities. The 9-1-1 Equalization Surcharge and Poison Control Surcharge go to the state treasury and are appropriated to ACSEC, which distributes the funds to the COGs and poison-control centers.

Once the fees are transferred to the COGs, emergency communication districts, or city governments, those entities arrange for 9-1-1 calls to be answered at Public Safety Answering Points or PSAPs. The majority of PSAPs are located at police or sheriff's departments.

ACSEC is governed by a 16-member commission, including eight members appointed by the governor, two appointed by the lieutenant governor, two appointed by the House speaker, and the commissioner of public health, the public safety director, the executive director of the Criminal Justice Policy Council, and the executive director of the association representing regional planning commissions. The latter four members may designate others to represent them.

The gubernatorial appointees must include a member of a county commissioners court, the director of an emergency communication district, a member of the governing body of a city, and a representative of each of the three largest telephone companies in the state.

In February 1998, Corpus Christi filed suit in the 201st Travis County District Court (Cause #99-02304) seeking to end its participation in the state 9-1-1 program under ACSEC. The case is pending.

DIGEST:

CSHB 1983 would change ACSEC's name to the Commission on State Emergency Communications (CSEC) and would continue the agency until September 1, 2011.

Major substantive changes would include creating a new account in general revenue for the deposit of Emergency Service Fee and Wireless Service Fee revenues, thus making all the of commission's fee revenues subject to the appropriations process. CSHB 1983 also would:

- ! change the composition of the commission;
- ! reduce remittance periods and the administrative fees paid to telephone

- companies;
- ! transfer responsibilities for audits and late-penalty payments to the comptroller;
- ! make CSEC the primary authority on the state's 9-1-1 system;
- ! require CSEC to develop contracts with COGs; and
- ! require expanded strategic planning by both the commission and the COGs.

Composition of the commission. The bill would reduce the commission's size and change its composition. The new 12-member CSEC board would include five members appointed by the governor and four members of the general public — two appointed by the lieutenant governor and two by the House speaker — plus three ex-officio members: the executive director of the Public Utility Commission (PUC), the executive director of the General Services Commission (GSC), and the commissioner of public health, or their designees.

The five gubernatorial appointees would include members of the governing boards of a regional planning commission, a county, and a home-rule city that operates a 9-1-1 system independent of the state system. The governor also would appoint a member or director of an emergency communication district and a representative of the general public.

ACSEC members' terms would expire September 1, 1999, and the members would serve until a majority of the successor commission was appointed. The new appointments would be made as soon as practicable after September 1.

Expanding CSEC's role. CSHB 1983 would designate CSEC as the state's primary authority on emergency communications. CSEC would be required to coordinate emergency communications providers and make efforts to gain the voluntary cooperation of 9-1-1 authorities and providers outside the commission's jurisdiction. These efforts would include addressing state and federal regulatory bodies and arranging cooperative purchases of equipment and services.

The commission also would have to develop and implement policies that clearly would separate the commission's policymaking responsibilities and the management responsibilities of the executive director and commission staff.

Contracts with COGs. CSHB 1983 would require CSEC to contract with COGs to provide 9-1-1 service and to adopt rules governing standard contract provisions. Under such contracts, each COG would receive funds quarterly from CSEC for 9-1-1 services in separately computed amounts from the Wireless Service Fee and the Emergency Service Fee. Fee amounts would be in proportion to the amount of revenue collected from those fees in the region. Contracts would require collection of data on the efficiency of 9-1-1 answering points and would require standards for the use and creation of new answering points.

Funds could be withheld if a COG did not follow a standard imposed by a contract, commission rule, or statute. In the case of a financial emergency, CSEC could give an advance on a quarterly distribution.

Upon receiving a request from a COG, CSEC would have to provide promptly documentation and financial records of the amount of money collected in that region and of the amount allocated to the COG.

Moving 9-1-1 funds into the treasury. Emergency service fees and wireless service fees would be deposited in the state treasury after CSEC distributed funds to emergency communication districts that did not participate in the CSEC program. The bill would create the 9-1-1 Service Fee Fund as an account in general revenue to receive those funds. Money in the account could be appropriated only for planning, development, provision of 9-1-1 service, or enhancement of the effectiveness of service or for contracts with COGs. State 9-1-1 funds no longer would go directly to the COGs nor to the commission, as under current law.

Reducing fee remittance time and administrative fees. CSHB 1983 would require telephone companies to remit emergency service fees and equalization surcharges to CSEC no later than 30 days after the last day of the month in which the fees or surcharges were collected, rather than within 60 days, as under current law. The bill would reduce to 1 percent the proportion of administrative fees that telephone companies could retain, rather than 2 percent as provided by current law.

Strategic planning. CSHB 1983 would require each COG to submit a regional 9-1-1 service plan to CSEC, updated every two years for the new

fiscal biennium, that would include two years of projected financial operating information and five years of strategic planning information. CSEC would have to notify a regional planning commission of the approval or rejection of the plan within 90 days of receiving it.

CSEC, in turn, would have to prepare its own five-year strategic plan for statewide 9-1-1 service for each biennium, incorporating information from each COG's regional plan, and present it to the governor and the Legislative Budget Board along with CSEC's legislative appropriations request. The strategic plan would include direction, goals, objectives, and long-range policy guidelines for emergency communications and would identify major issues and priorities for Texas' emergency communications system.

Audits and late-payment penalties. CSHB 1983 would authorize the commission or an employee to notify the comptroller of any irregularity that might appear to warrant an audit of a service provider who collects a fee or surcharge. The bill would require the comptroller to establish procedures to collect past-due fees and equalization surcharges, a function now allowed but not required of the commission. The comptroller also would have to establish procedures by which CSEC would notify the comptroller of a service provider's or business user's failure to deliver fees or surcharges timely.

Standard sunset recommendations. Other changes proposed by the bill include standard sunset recommendations on conflict of interest, public membership, equal employment opportunity, nonbiased appointments, standards of conduct, public testimony, maintenance of complaint information, and training and removal of commission members.

CSHB 1983 would take effect September 1, 1999.

**SUPPORTERS
SAY:**

Texas needs a separate agency to ensure 9-1-1 service across the state, speak for the state's 9-1-1 system as a whole, address technological changes, and ensure that rural areas receive service. Both the state auditor and the Sunset Advisory Commission agree that ACSEC is the logical agency to perform these tasks. Deregulation of the telecommunications industry has made it very complicated to administer a 9-1-1 program, and without the help of a state agency, rural areas might not be able to afford a 9-1-1 system.

The commission also is needed to address changes in technology that affect the entire state, such as the explosive growth in wireless communication. When citizens dial 9-1-1 from cellular phones, the calls are not routed consistently to 9-1-1 centers, or the centers may not respond at all. Also, the caller's number is not displayed for callback and tracing purposes, and nowhere in the state can an operator locate the source of an emergency cellular call unless the caller gives an address. Addressing information is important because an emergency call may come from someone who cannot give an address — for example, a child or someone who is too ill to speak.

The commission can ensure that technological problems like the growth of wireless communications are addressed in an efficient, cost-effective manner, maximizing economies of scale and reducing the cost of providing service and buying equipment.

Changes proposed by CSHB 1983, including the control of funds disbursed to COGs and contractual arrangements between the commission and the COGs, would help the commission solve the problems detailed in the state auditor's July 1998 report. The auditor's report also pointed out that regional consolidation of various services and of PSAPs could reduce duplicative administrative costs. This could not occur if the commission were abolished and 9-1-1 service were provided by a patchwork of local entities with little central coordination.

Composition of the commission. The proposed changes to the composition of the commission would reflect changes in the 9-1-1 system since the commission was founded. The commission now must work to maintain and expand the 9-1-1 system to reflect quickly changing telephone technologies. CSHB 1983 would remove members whose expertise no longer is needed, representing the Department of Public Safety, the Criminal Justice Policy Council, and the telephone companies. It would add representatives of the PUC and GSC for their expertise in telecommunications, contracts, and competitive procurement.

The five public members would represent a majority on the commission, guaranteeing the public a voice in a system that is for the public and is financed through surcharges on phone service.

Expanding CSEC's role. CSHB 1983 would require the commission to encourage cooperation throughout the 9-1-1 system, even among providers outside the commission's jurisdiction. This would help the state devise a cost-effective regional solution for dealing with new telephone technology. Facing complex technological changes, the state needs to assign one entity to speak and plan for the entire 9-1-1 system. Arranging cooperative purchases of equipment and services for all 9-1-1 providers would reduce costs for emergency services throughout the state.

Contracts with COGs. Requiring the commission to contract with COGs would provide greater accountability for the expenditure of 9-1-1 funds. The financial information provided by each COG's regional plan would establish funding needs and serve as a basis for its contract with the commission. CSHB 1983 also would ensure that the commission would receive accurate financial information from the COGs.

Moving funds into the treasury. According to the Sunset Commission, the Legislature controls only 21 percent of the state's 9-1-1 program funds through appropriations. This limits the state's ability to plan strategically and to set priorities for the 9-1-1 program. Some of the 9-1-1 funds go directly to the COGs with little oversight from ACSEC. CSHB 1983 would move 9-1-1 funds into the treasury, where they would be subject to the appropriations process. This would allow the commission to impose sanctions on COGs that spent 9-1-1 funds inappropriately.

Reducing fee remittance time and administrative fees. Except for the Wireless Service Fee, telephone companies now may hold 9-1-1 fee revenues for up to 60 days and may earn a 2 percent administrative fee. CSHB 1983 would increase state revenues by reducing the administrative fee to 1 percent and would reduce from 60 to 30 days the time telephone companies have to remit the fee. According to the Sunset Commission, collecting emergency communications fees costs the state more than \$1 million annually because of the long remittance periods and high administrative fees.

Strategic planning. CSHB 1983 would strengthen fiscal accountability and long-range planning at the commission by expanding the strategic planning process and requiring strategic plans to be presented to the Legislative Budget Board and the Legislature. This information would help the Legislature make

policy decisions about the state's 9-1-1 system. The bill also would bolster regional planning by requiring COGs to submit biennial financial projections and five-year strategic plans to the commission.

Audits and late payments. ACSEC has had limited success in ensuring that emergency fees are remitted and paid on time and in applying late-payment penalties when these conditions are not met. Under CSHB 1983, the comptroller would take over audit and late-payment responsibilities. The Comptroller's Office regularly audits and collects late-payment penalties for other state fees and could perform these duties more efficiently than the commission, increasing revenue for the state.

OPPONENTS
SAY:

ACSEC is no longer useful and should be abolished. All parts of the state now have 9-1-1 service, and it is time to allow local and regional entities to control their own 9-1-1 systems. The Texas Department of Health could administer the poison-control centers, and if state coordination of the 9-1-1 system is needed, the PUC could do that.

The state auditor's July 1998 report on the 9-1-1 system found that ACSEC's statewide organizational structure was inefficient and that better coordination was needed between ACSEC and the COGs in a number of areas, including performance management and financial reporting. The report also found duplicative administrative costs due to overlapping 9-1-1 responsibilities of COGs and ACSEC.

Composition of the commission. The commission should have more than one member representing COGs, since they are responsible for ensuring local service delivery. It would be unfair to have two members on the board who fell outside CSEC's jurisdiction — one from a home-rule city and the other from an emergency communication district — and only one member from a COG.

The commission should include a public safety official, since most PSAPs are housed either in sheriff's offices or police departments and those entities ultimately are responsible for delivering services to the public.

Moving funds into the treasury. Sending all 9-1-1 funds to the treasury and allowing no fees to go directly to the COGs could disrupt 9-1-1 service

seriously in many areas of Texas. Many COGs simply do not have the cash flow on hand to wait for quarterly disbursements and would not be able to pay telephone and other bills in the meantime. The 9-1-1 fees should not go to the treasury at all but should stay in the regions where they are collected. These are local funds, and whoever the region designates to provide the service should control the funds and set priorities for using them.

Strategic planning. Under CSHB 1983, once the COGs submitted their regional plans to CSEC, they would have no further input into the master strategic plan produced by the commission. There should be an official forum for discussion of issues important to COGs and local providers before a final strategic plan is submitted to the Legislature.

NOTES:

The original bill said only that CSEC would provide each COG with “the region’s share of emergency service fees.” The committee substitute spells out how that money would be apportioned, stipulating that each COG would receive an amount equal to all emergency service fees collected, multiplied by the total amount of fees collected from the region, divided by the total amount of those fees collected in the state.

The substitute added the requirement for CSEC to respond promptly when a COG wishes to know how much 9-1-1 money has been collected in the region or how much is allocated to the COG. The substitute also would require the governor to appoint a member of the commission who “serves as a director of” or sits on a governing board of an emergency communication district, rather than simply a member of the governing body.

The original bill specified that one member of the commission serve on the governing body of a county with a population of less than 50,000. The committee substitute removed the population limit.

A related bill, HB 1984 by Bosse, which would allow two or more emergency communication districts to consolidate upon voter approval, was reported favorably by the House Public Safety Committee on March 30.

Another related bill, HB 3445 by Keel, would allow any county with a population of more than 500,000, rather than more than 1.5 million as under

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current law, to provide 9-1-1 service in the unincorporated areas of the county, rather than relying on ACSEC. HB 3445 was reported favorably by the House County Affairs Committee on April 14.