HOUSE RESEARCH ORGANIZATION bill analysis — 5/3/2001

HB 2618
Gray
(CSHB 2618 by S. Turner)

SUBJECT: Establishing a disaster management fund

COMMITTEE: Public Safety — committee substitute recommended

VOTE: 8 ayes — B. Turner, Berman, Driver, Gutierrez, Hupp, Isett, P. King, Villarreal

0 nays

1 absent — Keel

WITNESSES: For — Tesa Duffey, Texas Gulf Coast Emergency Management; Patrick McMacken, Emergency Management Association of Texas

Against — None

On — Tom Millwee, Texas Department of Public Safety

BACKGROUND: The Texas Disaster Act of 1975 (Government Code, chapter 418) establishes guidelines for emergency management. The governor is responsible for meeting dangers to the state and to people presented by disasters. The statute defines a disaster as the occurrence of imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, other public calamity requiring emergency action, or energy emergency.

If a local government affected by a disaster needs financial assistance to perform its functions, the governor may apply to the federal government on behalf of the local government for a loan and may receive and disburse the proceeds of an approved loan to the local government. The governor may certify to the federal government the amount that the local government needs to restore or resume its functions, not to exceed 25 percent of the local government's annual operating budget.

Currently, if a federal emergency is declared, the federal government will pay 75 percent of the cost for infrastructure and mitigation, and the local government must pay the remaining 25 percent.

If a disaster has occurred but a federal emergency has not been declared, no stipulation exists for directing any funding to the affected areas. Pressure from the U.S. Congress on the Federal Emergency Management Agency has resulted in more objective factors, such as dollar per-capita damage, for declaring a federal emergency.

DIGEST:

CSHB 2618 would establish a disaster management fund to provide disaster assistance to victims and local governments in the absence of a presidential disaster declaration or a declaration that did not address certain forms of assistance. The fund would be a trust fund in the Texas Treasury Safekeeping Trust Company and would consist only of money appropriated to the fund.

The governor could provide money from the fund for emergency management and disaster assistance if the costs exceeded the amounts regularly appropriated to state and local agencies. Money in the fund could be used only for emergency management and disaster relief programs, except that in a fiscal year, the governor could authorize the use of:

- up to 10 percent of the fund for administrative costs;
- up to 15 percent of the fund for emergency management training;
- funds for mutual aid assistance;
- up to 4 percent of the fund for implementation of emergency notification systems or services;
- funds for aid to individuals or households;
- funds for at least one-half of eligible costs for projects involving crisis counseling, highway, street, or water control repair, and hazard mitigation;
- funds for at least one-half of an affected local government's share of public assistance expenses eligible for federal aid; and
- funds for competitive grants for emergency preparedness and recovery projects conducted by various groups.

In the event of a situation of such severity and magnitude that an effective response was beyond the capabilities of the state or the affected local government and if federal assistance was necessary, the governor could seek federal assistance to protect the public, lessen or avert the threat of catastrophe, supplement the efforts of local or state governments and volunteer groups, and compensate uninsured related losses.

If the governor determined that federal disaster relief would not be sufficient to address serious needs of disaster victims, the governor could make grants to help victims and households deal with disaster-related expenses. The grants could be used only for housing repairs, personal property repairs or replacements, and transportation, funeral, medical, dental, and other analogous expenses. The governor could withdraw or reduce assistance if the grants were not used within a set period. The governor also could make funds available to the Texas Department of Mental Health and Mental Retardation (MHMR) for short-term crisis counseling.

The governor could provide funds to a local government for repair or replacement of damaged highways, streets, or water-control facility if no other means of financial assistance was available. The governor could withdraw assistance for repair work that took place more than a year after the disaster occurred.

The governor also could provide funds for cost-effective hazard mitigation that substantially reduced the risk of future damage, loss, or suffering in any area affected by the disaster. The total amount granted could not exceed 20 percent of the estimated combined amount of funds given for disaster assistance. The governor also could provide funds for the costs associated with pre-disaster mitigation projects.

CSHB 2618 also would add terrorist activities to the list of occurrences in the definition of "disaster."

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001. On the effective date, the disaster contingency fund account would be abolished, and the comptroller would have to transfer any remaining funds into the disaster management fund.

NOTES:

The bill’s fiscal note estimates a net cost of $26.5 million in general revenue-related funds in fiscal 2002-03. A rider in Article 11 of SB 1 by Ellis, the fiscal 2002-03 general appropriations bill, contingent on the enactment of HB 2618, would appropriate to the Governor’s Office the average annual expenditures of state dollars appropriated in the previous six years for disaster response and relief as reported to the Department of Public Safety’s Division of Emergency Management and for emergency general appropriations for disaster relief.

The committee substitute changed the filed version by:

- authorizing the governor to provide funds to MHMR for crisis counseling;
- authorizing the governor to use money to fund competitive grants for projects by various groups; and
- authorizing the governor to pay for at least one-half of the costs of disaster-related crisis counseling, repair or replacement of highways, streets, and water-control structures, and hazard mitigation.

In 1997, the 75th Legislature enacted HB 99 by Gray, which would have created a disaster management fund within the treasury, funded through an assessment on the gross receipts of public utilities. Utilities would have had to include the assessment in utility rates, but could not have stated it separately on consumers’ bills. Gov. George W. Bush vetoed the bill, stating that emergency disaster relief “should not be funded with a hidden tax on Texans’ utility bills.” In the 76th Legislature, the House Public Safety Committee reported a similar bill, HB 515 by Gray, but the bill died late in the session.