

- SUBJECT:** Requiring payment to state agencies for costs incurred in disaster relief
- COMMITTEE:** Defense Affairs and State-Federal Relations — favorable, without amendment
- VOTE:** 5 ayes — Corte, Noriega, Herrero, Hodge, Merritt  
2 nays — Garcia, Raymond  
2 absent — Escobar, Moreno
- WITNESSES:** For — None  
Against — None  
On — Jack Colley, Governor’s Division of Emergency Management, Texas Department of Public Safety; James B. Hull, Texas Forest Service; John W. “Bill” May Jr., Texas Engineering Extension Service, Texas A&M University System; (*Registered, but did not testify:* Alfonso Campos, Texas Parks and Wildlife Department)
- BACKGROUND:** Government Code, sec. 418.073 provides for instances in which regular appropriations do not cover the costs that state and local agencies incurred in responding to a disaster. The governor may provide funding from the disaster contingency fund with the concurrence of the rest of the disaster emergency funding board, comprised of the lieutenant governor, the commissioner of insurance, the commissioner of the Department of Human Services, and the director of the Governor’s Division of Emergency Management (GDEM).
- DIGEST:** HB 2405 would amend Government Code, sec. 418.073 to require the governor to pay, from the disaster contingency fund, the costs incurred by any state agency if the governor deployed the agency’s personnel or other resources to respond to an emergency or natural disaster. The governor would not be allowed to take into account whether demands placed on funds otherwise appropriated to the agency were unreasonably great. The governor would not need concurrence of the disaster emergency funding board for payment under this section.

The 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, 2007.

**SUPPORTERS  
SAY:**

Texas has seen an unprecedented level of emergencies and disasters in the last two years, and HB 2405 would aid those agencies whose resources and personnel have been stretched thin by these demands. If the governor orders an agency to respond to a disaster, the governor also should be held responsible for ensuring that it is fully compensated for its activities in fulfilling those orders. Because emergencies are unanticipated, simply increasing funds annually allocated to response agencies would be wasteful. The bill would provide an assurance to state agencies that their funding needs would be met in times of crisis.

In an 18-month period, Texas has had to corral resources to handle response efforts to Hurricanes Rita and Katrina, floods in El Paso, and wildfires across the state – an unprecedented chain of catastrophic events. This month, 137 of the state's 254 counties are eligible for federal disaster aid because of drought conditions. Although under certain conditions, some state agencies can receive federal aid, this can be uncertain because a declaration often occurs well after the event and some activities are ineligible for federal aid.

The reimbursement process for state agencies is a lengthy process, both on the state and federal level. Some agencies have yet to be reimbursed by the state for expenditures on disasters that occurred more than three years ago. While the agencies clear spending with appropriate authorities when emergency action would exceed current budgetary limitations, they always are inclined to respond and would never use budgetary concerns as a reason to curtail any response efforts.

The state should not be shortchanging the first responders who risk their own lives to save the lives of others. These agencies do the best they can to try to keep costs down, and they are aided by the goodwill of others in this effort. But hotels and restaurants cannot and should not be relied upon to consistently provide rescue crews with free room and board. It is disrespectful to the service these people provide to continue to ask them to swallow costs incurred simply for doing their jobs.

By using money designated for other purposes to cover costs for emergencies, state agencies wind up hindering their own efforts to plan

and prepare for future emergencies. By not properly funding these agencies today, the state only is making tomorrow's rescue efforts more expensive. Several agencies have to pay exorbitant fees to mobilize equipment when a disaster strikes. The Texas Forest Service, for example, has to mobilize air tankers and helicopters to fight forest fires, yet if they had the ability to purchase some of this equipment ahead of time, they could save the state money.

Granting the Governor's Office sole authority to determine which expenditures would be reimbursed could politicize the process if, for example, the governor sought to reimburse funds expended in response to a disaster in a more populous area in lieu of paying agencies back for work done in a rural region.

OPPONENTS  
SAY:

This bill is unnecessary and would have little meaning until the Legislature solves the bigger problem — appropriating money into the disaster contingency fund. Although funding has been included to reimburse the Texas Forest Service \$44.7 million in the House engrossed version of HB 15 by Chisum, the supplemental appropriations bill, the House has chosen to appropriate in its version of the fiscal 2008-09 budget, HB 1 by Chisum, only \$14.2 million of the \$50 million the governor was seeking for the disaster contingency fund.

OTHER  
OPPONENTS  
SAY:

This bill should include a procedure for reimbursing the agencies that would allow GDEM to properly vet the expenditures instead of requiring that all expenditures be reimbursed. The Governor's Office should have discretion in deciding what costs are reimbursable while also considering what funds are available.

NOTES:

The Legislative Budget Board estimates the bill would have no fiscal impact on general revenue related funds but would require the expenditure of \$107, 160, the remainder of the Disaster Contingency Fund, in fiscal 2008.

A related bill, HB 2694 by Hamilton, which would require that GDEM administer the disaster contingency fund and develop procedures for reimbursing state and local agencies for expenses incurred during disasters, was reported favorably, without amendment, by the House Defense Affairs and State-Federal Relations Committee on April 17.