

- SUBJECT:** Pre-event contracts and liability protection related to disaster management
- COMMITTEE:** Defense and Veterans' Affairs — committee substitute recommended
- VOTE:** 7 ayes — Corte, Vaught, Farias, Maldonado, Ortiz, Pickett, C. Turner  
0 nays  
2 absent — Chavez, Edwards
- WITNESSES:** For — None  
Against — None  
On — (*Registered, but did not testify:* John Gillen, General Land Office; Tim Irvine, Texas Department of Housing and Community Affairs)
- BACKGROUND:** Government Code, sec. 431.085 states that a member of the state militia ordered into active service of the state is not civilly liable for acts performed in the discharge of duty.  
  
Government Code, sec. 418.043 establishes powers and duties of the Governor's Division of Emergency Management (GDEM) in addition to the agency's organization or development of a state emergency management plan, including determining state and local food and clothing needs in the event of a disaster, procuring medical supplies and equipment, and operating training programs.
- DIGEST:** HB 4409 would require the General Land Office and Texas Department of Transportation to solicit proposals and enter into pre-event contracts for beach and highway debris removal and would require the Texas Department of Housing and Community Affairs to solicit proposals and enter into pre-event contracts for temporary or emergency housing. The contracts would be activated only in the event of a weather-related disaster declaration, would be paid for with money from the Disaster Contingency Fund and would have to be adopted no later than January 1, 2010.  
  
The bill also would grant to state and local agency employees and officers, as well as to volunteers, the same protection from liability as that given to

members of the state militia if they are performing duties related to emergency disaster shelter or housing.

The GDEM would be given the responsibility to define “individuals with special needs” in the context of a disaster for use in emergency management planning.

The bill would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

HB 4409 would implement several recommendations included in the House Select Hurricane Ike Committee’s interim report. The committee found that debris cleanup on the state’s highways and beaches lacked coordination and was too slow in some areas. There also are concerns about the availability of temporary housing after a disaster as many residents still are waiting for housing that was supposed to be provided following Hurricane Rita. By requiring key state agencies have contracts for these services in place before disasters occur, the bill would help ensure better coordination and faster response to the state’s disaster recovery efforts. It also would encourage citizens to volunteer at emergency shelters by providing them with liability protection.

In the event the Disaster Contingency Fund was unavailable, the money for the contracts required by HB 4409 likely would come from existing agency budgets. Contracting for debris cleanup and temporary housing also could reduce state disaster recovery costs.

**OPPONENTS  
SAY:**

While this bill is intended to assist the state in its disaster recovery efforts, it does not specify where the contract funding would come from in the event that there was not enough money in the Disaster Contingency Fund. Full funding for the disaster contingency fund should be addressed along with any legislation requiring its use.

**NOTES:**

The substitute differs from the bill as filed by stating that the state agencies required to obtain contracts for housing and debris cleanup would have to solicit proposals for the contracts and obtain them before a disaster event, and by requiring that the contracts be paid with disaster contingency funds rather than permitting it.