

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1663

By: Terrill

AS INTRODUCED

An Act relating to public safety; amending 63 O.S. 2001, Section 682, as amended by Section 2, Chapter 329, O.S.L. 2003 and Section 1, Chapter 292, O.S.L. 2003 (63 O.S. Supp. 2004, Sections 682 and 682.1), which relate to federal assistance programs and vaccination programs for first responders; requiring submission of certain report to Oklahoma Office of Homeland Security; modifying certain definition; amending 63 O.S. 2001, Sections 683.3, as amended by Section 5, Chapter 329, O.S.L. 2003 and 683.6, as amended by Section 7, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2004, Sections 683.3 and 683.6), which relate to Oklahoma Emergency Management Act of 2003; defining certain term; modifying membership of Advisory Council; modifying responsibilities of Council; modifying membership of State Hazard Mitigation Team; requiring annual meeting; transferring Oklahoma Department of Emergency Management and Oklahoma Office of Volunteerism to Oklahoma Office of Homeland Security; designating Oklahoma Department of Emergency Management and Oklahoma Office of Volunteerism as Division of Preparedness and Awareness of the Oklahoma Office of Homeland Security; authorizing Director of State Finance to coordinate transfer of funds; providing for adequate staffing of new division; prohibiting the interference of current contractual obligations; providing for transfer of benefits, retirement, and longevity of classified employees; designating who shall have authority over Division of Preparedness and Awareness; amending Senate Joint Resolution No. 42, Section 1, 2002 (74 O.S. Supp. 2002, Section 10.6), as amended by Section 2, Chapter 157, O.S.L. 2004 and as renumbered by Section 8, Chapter 157, O.S.L. 2004 (74 O.S. Supp. 2004, Section 51.1), which relates to Oklahoma Office of Homeland Security; providing statutory reference; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2001, Section 682, as amended by Section 2, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2004, Section 682), is amended to read as follows:

Section 682. Each state institution, agency, board, and department, each political subdivision of the state, and each school district of the state is authorized to participate in such federal assistance programs as may be available or may become available to assist in providing tornado and severe weather protection. In accordance with the Oklahoma Homeland Security Act enacted in 2004, receipt of all federal funding related to ALL-Hazards protection and assistance shall be reported to the Oklahoma Office of Homeland Security.

SECTION 2. AMENDATORY Section 1, Chapter 292, O.S.L. 2003 (63 O.S. Supp. 2004, Section 682.1), is amended to read as follows:

Section 682.1 A. As used in this section:

1. "Department" means the State Department of Health, Bioterrorism Division;
2. "Director" means the Commissioner of Health;
3. "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance or biological product that may be engineered as a result of biotechnology or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance or biological product, to cause or attempt to cause death, disease or other biological malfunction in any living organism;
4. "Disaster locations" means any geographical location where a bioterrorism attack, terrorist attack, catastrophic or natural disaster or emergency occurs; and
5. "First responders" means state and local law enforcement personnel, fire department personnel ~~and~~, emergency medical personnel and emergency managers who will be deployed to bioterrorism attacks, terrorist attacks, catastrophic or natural disasters and emergencies.

B. The Department shall offer a vaccination program for first responders who may be exposed to infectious diseases when deployed to disaster locations. The vaccinations shall include, but are not limited to, hepatitis B vaccination, diphtheria-tetanus vaccination, influenza vaccination, and other vaccinations when recommended by the United States Public Health Service and in accordance with Federal Emergency Management Directors Policy. Immune globulin will be made available when necessary.

C. Participation in the vaccination program will be voluntary by the first responders, except for first responders who are classified as having "occupational exposure" to bloodborne pathogens as defined by the Occupational Safety and Health Administration Standard contained at 29 CFR 1910.1030. First responders who are classified as having "occupational exposure" to bloodborne pathogens shall be required to take the designated vaccinations.

D. A first responder shall be exempt from vaccinations when a written statement from a licensed physician is presented indicating that a vaccine is medically contraindicated for that person or the first responder signs a written statement that the administration of a vaccination conflicts with their religious tenets.

E. In the event of a vaccine shortage, the Director, in consultation with the Governor and the Centers for Disease Control and Prevention, shall give priority for vaccination to first responders.

F. The Department shall notify first responders of the availability of the vaccination program and shall provide educational materials on ways to prevent exposure to infectious diseases.

G. The Department may contract with county and local health departments, not-for-profit home health care agencies, hospitals and physicians to administer a vaccination program for first responders.

H. This section shall be effective upon receipt of federal funding and/or federal grants for administering a first responders vaccination program. Upon receipt of such funding, the Department shall make available the vaccines to first responders as provided in this section. If federal funds for these vaccines cease, the state shall not be liable for the continuation or cost of vaccines.

SECTION 3. AMENDATORY 63 O.S. 2001, Section 683.3, as amended by Section 5, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2004, Section 683.3), is amended to read as follows:

Section 683.3 As used in the Oklahoma Emergency Management Act of 2003:

1. "Emergency management" means the preparation for and the coordination of all emergency functions by organized and trained persons, who will extend existent governmental functions and provide other necessary nongovernmental functions, to prevent, minimize and repair injury and damage resulting from natural or man-made disasters developing to such an extent to cause an extreme emergency situation to arise which by declaration of the Governor jeopardizes the welfare of the citizens of this state. These emergency functions include, but are not limited to, fire fighting, law enforcement, medical and health, search and rescue, public works, warnings, communications, hazardous materials and other special response functions, evacuations of persons from affected areas, emergency assistance services, emergency transportation, and other functions related to preparedness, response, recovery and mitigation;

2. "Emergency Operations Plan" means that plan which sets forth the organization, administration and functions for emergency management by the state or local government;

3. "Emergency" means any occasion or instance for which, in the determination of the President of the United States or the Governor of the State of Oklahoma, federal or state assistance is needed to

supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert threat of a catastrophe in any part of the state;

4. "Significant events" means all hazardous material releases of any size and type, earthquakes, fires involving large buildings or facilities and large grass or wild fires, explosions, bomb threats, terrorist/civil disturbance, aircraft crash, natural disaster, utility disruption, dam breach, technological/man-made incident, search and rescue, structural collapse, and any other incident that poses significant consequences to the jurisdiction;

5. "Hazard mitigation" means any cost-effective measure which will reduce or eliminate the effects of a natural or man-made disaster;

6. "Local organization for emergency management" means an organization created in accordance with the provisions of the Oklahoma Emergency Management Act of 2003 by state or local authority to perform local emergency management functions;

7. "Man-made disaster" means a disaster caused by acts of man including, but not limited to, an act of war, terrorism, chemical spill or release, or power shortages that require assistance from outside the local political subdivision;

8. "Natural disaster" means any natural catastrophe, including, but not limited to, a tornado, severe storm, high water, flood waters, wind-driven water, earthquake, landslide, mudslide, snowstorm, or drought which causes damage of sufficient severity and magnitude to warrant hazard mitigation or the use of resources of the federal government, or the state and political subdivisions thereof to alleviate the damage, loss, hardship or suffering caused thereby; ~~and~~

9. "Political subdivision" shall mean any county, city, town or municipal corporation of the State of Oklahoma represented by an elected governing body; and

10. "Unified Command System" means having a team of leaders from the different emergency first-responder agencies and departments that will be utilized to formulate the command decisions in the event of large-scale, mass-casualty incidents.

SECTION 4. AMENDATORY 63 O.S. 2001, Section 683.6, as amended by Section 7, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2004, Section 683.6), is amended to read as follows:

Section 683.6 A. There is hereby created an Emergency Management Advisory Council. The members of the Council shall be composed of the Governor, who shall serve as chair of the Council, and the following department heads:

1. The Director of the Oklahoma ~~Department of Emergency Management~~ Office of Homeland Security;
2. The Commissioner of Public Safety;
3. The Adjutant General;
4. The ~~Commissioner of Health~~ Director of the Emergency Medical Services Division from the State Department of Health;
5. The Commissioner of the State Department of Agriculture, Food, and Forestry;
6. The Director of the Department of Human Services;
7. The Director of the Department of Transportation;
8. The Director of the Oklahoma Water Resources Board;
9. The State Fire Marshal;
10. The Department of Environmental Quality; ~~and~~
11. The Oklahoma Sheriff's Association; and
12. A representative from the Oklahoma Urban Search and Rescue U.S.A.R. team,

who shall serve without additional compensation.

B. The Council shall advise the Governor and the Director of the Oklahoma Department of Emergency Management which functions as the division head of the Preparedness and Awareness Division of the Oklahoma Office of Homeland Security on all matters pertaining to

emergency management. The Council shall serve as an oversight committee and review the state Emergency Response Plan using a Unified Command System approach to assure that it is in compliance with the National Response Plan during their meetings. The meetings shall be conducted at least two times a year.

C. 1. There is hereby created the State Hazard Mitigation Team, composed of the administrative heads of the following agencies or their designees:

- a. the Director of the Oklahoma Department of Emergency Management which functions as the Division Head of the Preparedness and Awareness Division of the Oklahoma Office of Homeland Security, who shall serve as the Team Coordinator,
- b. Oklahoma Water Resources Board,
- c. Oklahoma Climatological Survey,
- d. Oklahoma Conservation Commission,
- e. Oklahoma Corporation Commission,
- f. Oklahoma Department of Commerce,
- g. Oklahoma Department of Environmental Quality,
- h. Oklahoma Department of Human Services,
- i. Oklahoma Department of Health,
- j. Oklahoma Department of Transportation,
- k. Oklahoma Department of Agriculture, Food, and Forestry or Secretary of the Oklahoma Department of Agriculture, Food, and Forestry,
- l. Oklahoma Department of Wildlife Conservation,
- m. Oklahoma Historical Society,
- n. Oklahoma Insurance Commission,
- o. Association of County Commissioners of Oklahoma,
- p. Oklahoma Municipal League,
- q. State Fire Marshal, ~~and~~
- r. Oklahoma Department of Labor,

- s. Oklahoma Highway Patrol,
- t. Oklahoma Sheriffs' Association,
- u. Emergency Medical Services Division from the Oklahoma Department of Health, and
- v. Oklahoma Urban Search and Rescue U.S.A.R. team.

2. Depending on the circumstances, the Team Coordinator may request participation of the heads of any other state agencies as deemed appropriate.

3. The Team Coordinator shall also request that a representative of the United States Army Corps of Engineers be appointed by the administrative head of the Tulsa District to participate on the Team.

4. The Team Coordinator shall also request a representative of the U.S. Department of Housing and Urban Development be appointed by the administrative head of the Oklahoma City office to participate on the team.

5. The State Hazard Mitigation Team will meet ~~as determined by the Team Coordinator~~ at least once per year to review and recommend updates to the State Comprehensive All-hazard Mitigation Plan which shall comply with the National Response Plan, and shall have those additional responsibilities as provided by the Team Coordinator, including, but not limited to, the review and recommendation for loan and grant application under the Oklahoma Flood Hazard Mitigation Program.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 683.35 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. In order to better coordinate the work of the state to mitigate the effects of man-made or natural disasters, effective July 1, 2005, the Oklahoma Department of Emergency Management and Oklahoma Office of Volunteerism and all the powers, duties, and responsibilities of the Director of Emergency Management are hereby



transferred to the Oklahoma Office of Homeland Security and will function as the Division of Preparedness and Awareness of the Oklahoma Office of Homeland Security, together with all unexpended funds, property, records, personnel, and any outstanding financial obligations or encumbrances, exclusively or principally pertaining to the office.

B. The Director of State Finance is hereby directed to coordinate the transfer of funds, allotments, purchase orders, outstanding financial obligations or encumbrances provided for in this section into a separate account under the Oklahoma Office of Homeland Security.

C. Upon transfer of the Oklahoma Department of Emergency Management and the Oklahoma Office of Volunteerism, the Director of the Oklahoma Office of Homeland Security shall provide for the adequate staffing of its new Division of Preparedness and Awareness to ensure the transfer may be effectuated with minimum interruption of its work thus far and with the mission of the agency. The transfer or the reallocation of resources shall not operate to prevent completion of any unconsummated legal contracts with corporation, individual parties, and other government units and other legal contracts previously entered into by the Oklahoma Department of Emergency Management.

D. Any classified employee within the Oklahoma Department of Emergency Management shall be transferred to the newly created Division of Preparedness and Awareness of the Oklahoma Office of Homeland Security. The employees shall remain subject to the provisions of the Merit System of Personnel Administration as provided for in the Oklahoma Personnel Act, and shall be transferred pursuant to OAC 530:10-11-74 without change in status and without the need to pass further examination or meet additional qualifications. The employee shall retain any retirement and longevity benefits and seniority which have accrued prior to the

transfer. The transfer shall be coordinated with the Office of Personnel Management.

E. As the new Division of Preparedness and Awareness, the Oklahoma Department of Emergency Management shall be subject to the authority and direction of the Director of the Oklahoma Office of Homeland Security in conjunction with oversight by the Emergency Management Advisory Council so that closer coordination between all emergency first-responders can be facilitated.

SECTION 6. AMENDATORY Senate Joint Resolution No. 42, Section 1, O.S.L. 2002 (74 O.S. Supp. 2002, Section 10.6), as amended by Section 2, Chapter 157, O.S.L. 2004 and as renumbered by Section 8, Chapter 157, O.S.L. 2004 (74 O.S. Supp. 2004, Section 51.1), is amended to read as follows:

Section 51.1 A. There is hereby created the Oklahoma Office of Homeland Security. The Governor shall be the chief officer of the Office and shall appoint a Homeland Security Director who shall be responsible to the Governor for the operation and administration of the Office. The Governor shall determine the salary for the Director.

B. The Oklahoma Homeland Security Director shall possess or obtain a federally recognized Top Secret Level Clearance.

1. Any employee of state government appointed to the position of Oklahoma Homeland Security Director shall have a right to return to the previously held classified position of the employee without any loss of rights, privileges, or benefits immediately upon completion of the duties as Oklahoma Homeland Security Director, provided the employee is not otherwise disqualified.

2. Any person appointed to the position of Oklahoma Homeland Security Director, if already a member of a state retirement system, shall be eligible to continue participation in that system. If not a member of a state retirement system, the Director shall be eligible to participate in the Oklahoma Public Employees Retirement

System. The Oklahoma Homeland Security Director shall be eligible for participation in only one retirement system and shall elect in writing the system in which the Director intends to participate.

3. The Commissioner of the Department of Public Safety may commission the Director of Homeland Security as a peace officer if at the time of appointment the Director is certified as a law enforcement officer by the Council on Law Enforcement Education and Training (CLEET) or as a state trooper if at the time of appointment the Director is a CLEET-certified officer of the Oklahoma Highway Patrol.

C. The Oklahoma Office of Homeland Security shall consist of at least three divisions:

1. Prevention and Intelligence;

2. Response and Recovery Planning; and

3. Awareness and Preparedness, as established in Sections 683.1 through 683.34 of Title 63 of the Oklahoma Statutes and Section 5 of this act.

D. The Director shall be authorized to employ personnel necessary to achieve the mission of the Office. Other federal, state, and local personnel may be assigned to the Office of Homeland Security pursuant to an interagency agreement. The Governor shall designate at which appropriate state agency the Oklahoma Office of Homeland Security shall be located. That agency shall provide housing, administrative staff and other support to the Oklahoma Office of Homeland Security. All positions and personnel of the Office of Homeland Security shall be exempt from the full-time-employee limit of the state agency where the Office of Homeland Security is located.

E. The Oklahoma Homeland Security Director shall have the duty and responsibility to develop and coordinate the implementation and administration of a comprehensive statewide strategy to secure the State of Oklahoma from the results of acts of terrorism, from a

public health emergency, from cyberterrorism, and from weapons of mass destruction as that term is defined in 18 U.S.C., Section 2332a, and to perform other duties assigned by the Governor. These duties shall include but not be limited to:

1. Representing the State of Oklahoma with federal agencies as the state homeland security director for purposes of accessing federal funds and cooperating with federal agencies in the development and implementation of a nationwide homeland security plan of response; and

2. Coordinating the Homeland Security efforts within the State of Oklahoma, including working with the Governor and Legislature, state agencies, and local elected officials and local governments, emergency responder groups, private-sector businesses, educational institutions, volunteer organizations, and the general public. State agencies receiving federal funding for homeland security purposes shall report the amount and intended use of those funds to the Oklahoma Homeland Security Director to ensure efficient use of funds and to avoid duplication of efforts.

F. Included in the comprehensive statewide strategy and consistent with the National Strategy for Homeland Security, as promulgated by the Office of the President of the United States, or its successor plan or plans, the Oklahoma Homeland Security Director shall establish the following strategic objectives for Oklahoma:

1. To prevent terrorist attacks;
2. To reduce vulnerability to terrorism;
3. To minimize the damage from and to recover from terrorist attacks; and
4. Such other duties as the Governor may prescribe.

G. The Oklahoma Office of Homeland Security shall have the following duties:

1. Establish a plan for the effective implementation of a statewide emergency All-Hazards response system, including the duties and responsibilities of regional emergency response teams;

2. Create, implement, and administer an advisory system;

3. Coordinate and prepare applications for federal funds related to homeland security and accessing and distributing the federal funds; and

4. Cooperate with federal agencies in the development and implementation of a nationwide homeland security plan or response.

H. The Oklahoma Office of Homeland Security and any local government may enter into contracts with each other for equipment and personnel, or both. The contract may include any provisions agreed upon by the parties and as required by any federal or state grant, if applicable.

I. All state agencies and political subdivisions of this state and all officers and employees of those agencies and political subdivisions are hereby directed to cooperate with and lend assistance to the Oklahoma Homeland Security Director.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

50-1-6261          GRS          01/19/05