

The Senate of The State of Texas



BRIAN BIRDWELL

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BIRDWELL FILES SJR 45 and SB 1025

SJR 45 and Senate Bill 1025 will rebalance powers in times of emergency and disaster

AUSTIN—State Senator Brian Birdwell (R-Granbury) filed Senate Joint Resolution 45 and Senate Bill 1025 on Thursday to rebalance the legislative and executive responsibilities in times of disaster and emergency.

Current disaster law, which is based on the Texas Disaster Act of 1975, was designed to empower the executive branch to oversee an unencumbered, uniform response to potential threats facing Texas. However, the Act was also intended to engage the legislative branch as a check to this power—a check of power that is conspicuously unavailable outside of the regular session which lasts for 140 days every two years.

"Over the past several months, my team and I have undertaken an in-depth analysis of the state's current disaster laws. The COVID-19 pandemic and its attendant disaster declaration in Texas have led many to question what role the Texas Legislature plays in assessing and addressing large-scale disasters," Birdwell said. "When out of session, the legislature's prerogative factors into disaster planning only to the extent permitted by the governor. These pieces of legislation institute the legislative check originally contemplated by the disaster act without unnecessarily encumbering the governor's response to more routinely recurring disasters that do not affect a substantial number of citizens of the state."

"I'm honored to have fourteen joint authors on my legislation. In the weeks ahead, I look forward to working with my Senate and House colleagues to get this legislation passed and to put the constitutional amendment in front of the voters in November," said Birdwell.

Some of the major functions of SJR 45 and SB 1025 include:

- SJR 45 in conjunction with SB 1025 would install the legislative check originally contemplated in the Texas Disaster Act of 1975. Specifically, the legislation would require the governor to call a special session if he or she desires to continue a declaration past thirty days when any one of the following three conditions are met:
 - the declaration affects half of the state's population;
 - the declaration affects 2/5 (102 or more) of the counties; or
 - the declaration affects 2/3 of the counties in 3 or more trauma service regions
- SJR 45 provides an enforcement mechanism for ensuring that the special session occurs when appropriate. As proposed, it grants any sitting legislator at the time of the disaster with standing to challenge the executive branch in the Supreme Court of Texas if the governor fails to convene the legislature after a qualifying disaster or emergency declaration.
- Once convened, the legislature may terminate or renew the order subject to limitations as it deems fit. This may be effectuated by a concurrent resolution or another legislative enactment that is not subject to veto.
- SB 1025 clarifies that only the legislature may suspend a provision of the Penal, Criminal Procedure, or Election codes during major disasters.
- The bill also makes it clear that only the legislature may order the closure of specific classes of businesses or houses of worship during major disasters.

Brian Birdwell is a native Texan, decorated military veteran, lifelong conservative Republican, survivor of the 9/11 terrorist attack on the Pentagon, and a proud husband and father. He currently represents Bosque, Ellis, Falls, Hill, Hood, Johnson, McLennan, Navarro, Somervell and Tarrant [partial] Counties in Senate District 22.