

By: Birdwell, et al.

S.B. No. 1025

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the legislature and governor with respect to certain disaster or emergency declarations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 418, Government Code, is amended by adding Section 418.0125 to read as follows:

Sec. 418.0125. POWER RESERVED TO LEGISLATURE. (a)

Notwithstanding any other law, during a declared state of disaster described by Section 8(c), Article IV, Texas Constitution, only the legislature has the authority to:

(1) suspend a provision in the Code of Criminal Procedure, Election Code, or Penal Code to appropriately respond to the disaster;

(2) restrict or impair the operation or occupancy of businesses or places of worship in this state by category or region to appropriately respond to the disaster; or

(3) renew or extend the governor's state of disaster declaration.

(b) The governor by proclamation shall convene the legislature in special session to respond to a declared state of disaster if the governor finds that the authority of the legislature under Subsection (a) should be exercised and the legislature is not convened in regular or special session.

SECTION 2. Section 418.014, Government Code, is amended by

1 amending Subsections (b) and (c) and adding Subsection (c-1) to  
2 read as follows:

3 (b) Except as provided by Subsection (c) or (c-1), the state  
4 of disaster continues until the governor:

5 (1) finds that:

6 (A) the threat or danger has passed; or

7 (B) the disaster has been dealt with to the  
8 extent that emergency conditions no longer exist; and

9 (2) terminates the state of disaster by executive  
10 order.

11 (c) A state of disaster may not continue for more than 30  
12 days unless renewed by the governor, subject to Subsection (c-1).  
13 The legislature by law may terminate a state of disaster at any  
14 time. On termination by the legislature, the governor shall issue  
15 an executive order ending the state of disaster.

16 (c-1) If the governor finds that a state of disaster  
17 described by Section 8(c), Article IV, Texas Constitution, requires  
18 renewal and the legislature is not convened in regular or special  
19 session, the governor by proclamation shall convene the legislature  
20 in special session to renew, extend, or otherwise respond to the  
21 state of disaster. The governor may not declare a new state of  
22 disaster based on the same or a substantially similar finding as a  
23 prior state of disaster subject to this subsection that was  
24 terminated or not renewed by the legislature.

25 SECTION 3. Section 418.016(a), Government Code, is amended  
26 to read as follows:

27 (a) Subject to Section 418.0125, the ~~The~~ governor may

1 suspend the provisions of any regulatory statute prescribing the  
2 procedures for conduct of state business or the orders or rules of a  
3 state agency if strict compliance with the provisions, orders, or  
4 rules would in any way prevent, hinder, or delay necessary action in  
5 coping with a disaster.

6 SECTION 4. Section 418.019, Government Code, is repealed.

7 SECTION 5. Section 433.002, Government Code, is amended by  
8 amending Subsection (b) and adding Subsection (b-1) to read as  
9 follows:

10 (b) Subject to Section 433.0025, the ~~[The]~~ directive may  
11 provide for:

12 (1) control of public and private transportation in  
13 the affected area;

14 (2) designation of specific zones in the affected area  
15 in which, if necessary, the use and occupancy of buildings and  
16 vehicles may be controlled;

17 (3) control of the movement of persons;

18 (4) control of places of amusement or assembly; and

19 (5) establishment of curfews. ~~[+]~~

20 (b-1) Notwithstanding Section 433.0025, the directive may  
21 also provide for:

22 (1) ~~[(6)]~~ control of the sale, transportation, and use  
23 of alcoholic beverages, weapons, and ammunition, except as provided  
24 by Section 433.0045; and

25 (2) ~~[(7)]~~ control of the storage, use, and  
26 transportation of explosives or flammable materials considered  
27 dangerous to public safety.

1 SECTION 6. Chapter 433, Government Code, is amended by  
2 adding Section 433.0025 to read as follows:

3 Sec. 433.0025. POWER RESERVED TO LEGISLATURE. (a)  
4 Notwithstanding Section 433.002 or any other law, during a state of  
5 emergency described by Section 8(c), Article IV, Texas  
6 Constitution, only the legislature has the authority to:

7 (1) suspend a provision in the Code of Criminal  
8 Procedure, Election Code, or Penal Code to appropriately respond to  
9 the emergency; or

10 (2) restrict or impair the operation or occupancy of  
11 businesses or places of worship in this state by category or region  
12 to appropriately respond to the emergency except as expressly  
13 provided by Subsection (b-1) of Section 433.002.

14 (b) The governor by proclamation shall convene the  
15 legislature in special session to respond to a state of emergency  
16 described by Section 8(c), Article IV, Texas Constitution, if the  
17 governor finds that the authority of the legislature under  
18 Subsection (a) should be exercised and the legislature is not  
19 convened in regular or special session.

20 SECTION 7. Section 433.003, Government Code, is amended by  
21 amending Subsections (a) and (b) and by adding Subsection (c) to  
22 read as follows:

23 (a) Except as provided by Subsections [~~Subsection~~] (b) and  
24 (c), a directive expires 72 hours after the time of proclamation of  
25 the state of emergency for which it was issued.

26 (b) The governor by proclamation may terminate or set a  
27 shorter period for a directive issued under Subsection (b) of

1 Section 433.002. The governor may proclaim successive states of  
2 emergency, each not exceeding 72 hours, as necessary to protect  
3 health, life, and property in the affected area, and may extend a  
4 directive issued under Subsection (b) of Section 433.002 from one  
5 state of emergency to the next.

6 (c) The governor by proclamation may terminate or set a  
7 shorter period for a directive issued under Subsection (b-1) of  
8 Section 433.002. In any case, a directive issued under Subsection  
9 (b-1) of Section 433.002 shall expire no later than 9 days after the  
10 time of proclamation of the state of emergency for which it was  
11 issued.

12 SECTION 8. The changes in law made by this Act apply only to  
13 an order, proclamation, or regulation issued on or after the  
14 effective date of this Act.

15 SECTION 9. This Act takes effect December 1, 2021, but only  
16 if the constitutional amendment proposed by the 87th Legislature,  
17 Regular Session, 2021, regarding the powers of the governor and the  
18 legislature following certain disaster or emergency declarations  
19 is approved by the voters. If that amendment is not approved by the  
20 voters, this Act has no effect.