

By: Birdwell, et al.  
(Slawson)

S.B. No. 871

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the legislature, governor, and certain political subdivisions with respect to disasters and emergencies.

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

SECTION 1. Section 418.002, Government Code, is amended to read as follows:

Sec. 418.002. PURPOSES. The purposes of this chapter are to:

(1) reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or man-made disasters [~~catastrophes, riots, or hostile military or paramilitary action~~];

(2) prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;

(3) provide a setting conducive to the rapid and orderly restoration and rehabilitation of persons and property affected by disasters;

(4) clarify and strengthen the roles of the governor, state agencies, the judicial branch of state government, and local governments in prevention of, preparation for, response to, and recovery from disasters;

(5) authorize and provide for cooperation in disaster mitigation, preparedness, response, and recovery;

(6) authorize and provide for coordination of

1 activities relating to disaster mitigation, preparedness,  
2 response, and recovery by agencies and officers of this state, and  
3 similar state-local, interstate, federal-state, and foreign  
4 activities in which the state and its political subdivisions may  
5 participate;

6 (7) provide an emergency management system embodying  
7 all aspects of predisaster preparedness and postdisaster response;

8 (8) assist in mitigation of disasters caused or  
9 aggravated by inadequate planning for and regulation of public and  
10 private facilities and land use;

11 (9) encourage state agencies, local governments,  
12 nongovernmental organizations, private entities, and individuals  
13 to adopt the goals of the strategic plan of the Federal Emergency  
14 Management Agency for preparing for, responding to, and recovering  
15 from a disaster that emphasize cooperation among federal agencies,  
16 state agencies, local governments, nongovernmental organizations,  
17 private entities, and individuals in each activity or project  
18 undertaken to ensure that this state is prepared to effectively  
19 respond to and recover from a disaster; and

20 (10) provide the authority and mechanism to respond to  
21 an energy emergency.

22 SECTION 2. Section 418.004(1), Government Code, is amended  
23 to read as follows:

24 (1) "Disaster" means the occurrence or imminent threat  
25 of widespread or severe damage, injury, or loss of life or property  
26 resulting from any natural or man-made cause unrelated to the use of  
27 force or violence such as civil unrest, riots, or insurrection. The

1 term includes~~[, including]~~ fire, flood, earthquake, wind, storm,  
2 wave action, oil spill or other water contamination, volcanic  
3 activity, epidemic, air contamination, blight, drought,  
4 infestation, explosion, ~~[riot, hostile military or paramilitary~~  
5 ~~action,~~] extreme heat, cybersecurity event, other public calamity  
6 requiring emergency action, or energy emergency.

7 SECTION 3. Subchapter B, Chapter 418, Government Code, is  
8 amended by adding Section 418.0126 to read as follows:

9 Sec. 418.0126. CERTAIN POWER RELATED TO BUSINESSES RESERVED  
10 TO LEGISLATURE. (a) Notwithstanding any other law, during a  
11 declared state of disaster, only the legislature has the authority  
12 to restrict or impair the operation or occupancy of businesses in  
13 this state by category or region to appropriately respond to the  
14 disaster. The legislature may only exercise the authority granted  
15 by this subsection in a county after consulting with the county  
16 judge of each county impacted by the disaster.

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

22 SECTION 4. Section 418.014, Government Code, is amended by  
23 amending Subsections (b) and (c) and adding Subsection (c-1) to  
24 read as follows:

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

27 (1) finds that:

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

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

4 (2) terminates the state of disaster by executive  
5 order.

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

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

20 SECTION 5. Section 418.0155, Government Code, is amended by  
21 adding Subsections (c) and (d) to read as follows:

22 (c) The governor's office shall publish the list compiled  
23 under Subsection (a) on the office's Internet website.

24 (d) Each state agency impacted by the suspension of a  
25 statute or rule on the list compiled under Subsection (a) shall  
26 publish on the agency's Internet website a list of those statutes  
27 and rules. The agency's list must be:

1           (1) posted or updated within 24 hours of any  
2 suspension; and

3           (2) accessible by selecting or viewing not more than  
4 two Internet web pages after accessing the agency's Internet home  
5 page.

6           SECTION 6. Section 418.016(a), Government Code, is amended  
7 to read as follows:

8           (a) Subject to Sections 418.0126 and 418.0165, the ~~[The]~~  
9 governor may suspend the provisions of any regulatory statute  
10 prescribing the procedures for conduct of state business or the  
11 orders or rules of a state agency if strict compliance with the  
12 provisions, orders, or rules would in any way prevent, hinder, or  
13 delay necessary action in coping with a disaster.

14           SECTION 7. Subchapter B, Chapter 418, Government Code, is  
15 amended by adding Section 418.0165 to read as follows:

16           Sec. 418.0165. LIMITATION ON POWER TO SUSPEND LAWS OR  
17 RULES. (a) Notwithstanding any provision of this chapter, the  
18 governor may not suspend:

19                   (1) a provision of this chapter or Chapter 433; or  
20                   (2) a law or rule related to the application of Chapter  
21 325 (Texas Sunset Act), the suspension of which results in the  
22 continuation of a state agency beyond the date prescribed in  
23 statute for the abolishment of the agency.

24           (b) Except as provided by Subsection (d), the governor may  
25 suspend a provision of the Code of Criminal Procedure, Election  
26 Code, or Penal Code only during the first 30 days of a declared  
27 state of disaster.

1        (c) If the governor finds that a suspension authorized by  
2 Subsection (b) should be continued beyond the first 30 days of a  
3 declared state of disaster and the legislature is not convened in  
4 regular or special session, the governor by proclamation shall  
5 convene the legislature in special session to respond to a state of  
6 disaster.

7        (d) Except as provided by this subsection, the governor may  
8 not suspend a provision of the Election Code related to the  
9 qualifications or procedures for early voting by mail or to the  
10 procedures for accepting a voter during any voting period,  
11 including procedures related to voter identification, residency,  
12 and signature requirements, except that the governor may suspend  
13 Section 86.006(a-1), Election Code, only for the purpose of  
14 allowing a voter registered to vote at an address located in a  
15 disaster area to deliver a marked ballot voted under Section  
16 86.006(a-1) to the early voting clerk's office on or before  
17 election day. This subsection does not prohibit the governor from  
18 suspending a provision of the Election Code to extend the voting  
19 period for early voting by mail as necessary to address the declared  
20 disaster.

21        SECTION 8. Subchapter B, Chapter 418, Government Code, is  
22 amended by adding Section 418.027 to read as follows:

23        Sec. 418.027. PREEMPTION OF DECLARATION OF LOCAL DISASTER.  
24 A declaration of local disaster issued under Subchapter E may not  
25 conflict with, or expand or limit the scope of, a declaration of  
26 disaster issued under this subchapter unless expressly authorized  
27 by a proclamation or executive order issued by the governor under

1 this chapter.

2 SECTION 9. Section 433.001, Government Code, is amended to  
3 read as follows:

4 Sec. 433.001. PROCLAMATION OF STATE OF EMERGENCY. On  
5 application of the chief executive officer or governing body of a  
6 county or municipality during an emergency, the governor may  
7 proclaim a state of emergency and designate the area involved. For  
8 the purposes of this section an emergency exists in the following  
9 situations:

10 (1) a riot or unlawful assembly by three or more  
11 persons acting together by use of force or violence;

12 (2) if a clear and present danger of the use of force  
13 or violence exists; or

14 (3) a natural or man-made disaster related to the use  
15 of force or violence such as civil unrest or insurrection.

16 SECTION 10. Section 433.002, Government Code, is amended by  
17 amending Subsection (b) and adding Subsection (d) to read as  
18 follows:

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

21 (1) control of public and private transportation in  
22 the affected area;

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

26 (3) control of the movement of persons;

27 (4) control of places of amusement or assembly;

1           (5) establishment of curfews;

2           (6) control of the sale, transportation, and use of  
3 alcoholic beverages; and

4           (7) control of the storage, use, and transportation of  
5 explosives or flammable materials considered dangerous to public  
6 safety, other than explosives or flammable materials that are  
7 components of firearm ammunition.

8           (d) A directive issued under this section applies only  
9 within the jurisdictional boundaries of the county or municipality  
10 for which an application was made under Section 433.001.

11           SECTION 11. Chapter 433, Government Code, is amended by  
12 adding Section 433.0025 to read as follows:

13           Sec. 433.0025. CERTAIN POWER RELATED TO BUSINESSES RESERVED  
14 TO LEGISLATURE. (a) During a state of emergency, only the  
15 legislature has the authority to restrict or impair the operation  
16 or occupancy of businesses in this state by category or region to  
17 appropriately respond to the emergency.

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

23           SECTION 12. Section 418.019, Government Code, is repealed.

24           SECTION 13. The changes in law made by this Act apply only  
25 to an order, proclamation, regulation, or directive issued on or  
26 after the effective date of this Act.

27           SECTION 14. This Act takes effect January 1, 2027, but only



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1 if the constitutional amendment proposed by the 89th Legislature,  
2 Regular Session, 2025, regarding the powers of the governor, the  
3 legislature, and the supreme court following certain disaster or  
4 emergency declarations is approved by the voters. If that  
5 amendment is not approved by the voters, this Act has no effect.