

By: Burrows

H.B. No. 3

Substitute the following for H.B. No. 3:

By: Paddie

C.S.H.B. No. 3

A BILL TO BE ENTITLED

1 AN ACT
2 relating to state and local government responses to a pandemic
3 disaster, including the establishment of the Pandemic Disaster
4 Legislative Oversight Committee.

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

6 SECTION 1. Subtitle C, Title 3, Government Code, is amended
7 by adding Chapter 329 to read as follows:

8 CHAPTER 329. PANDEMIC DISASTER LEGISLATIVE OVERSIGHT COMMITTEE

9 Sec. 329.001. DEFINITIONS. In this chapter:

10 (1) "Committee" means the Pandemic Disaster
11 Legislative Oversight Committee.

12 (2) "Pandemic disaster" has the meaning assigned by
13 Section 418A.003(2).

14 Sec. 329.002. ESTABLISHMENT; COMPOSITION. (a) The Pandemic
15 Disaster Legislative Oversight Committee is established to:

16 (1) consider the impact on this state and its
17 residents of a state of pandemic disaster declared by the governor;
18 and

19 (2) provide legislative oversight of pandemic
20 disaster declarations.

21 (b) The committee is composed of 10 members as follows:

22 (1) the lieutenant governor;

23 (2) the speaker of the house of representatives;

24 (3) the chair of the Senate Committee on Finance or its

1 successor;

2 (4) the chair of the Senate Committee on State Affairs
3 or its successor;

4 (5) the chair of the Senate Committee on Health and
5 Human Services or its successor;

6 (6) the chair of the Senate Committee on Education or
7 its successor;

8 (7) the chair of the House Committee on Appropriations
9 or its successor;

10 (8) the chair of the House Committee on State Affairs
11 or its successor;

12 (9) the chair of the House Committee on Public Health
13 or its successor; and

14 (10) the chair of the House Committee on Public
15 Education or its successor.

16 Sec. 329.003. JOINT CHAIRS. The lieutenant governor and
17 speaker of the house of representatives serve as joint chairs of the
18 committee.

19 Sec. 329.004. POWERS AND DUTIES. (a) The committee may act
20 only when the legislature is not convened in regular or special
21 session.

22 (b) The committee is authorized to:

23 (1) review any state of pandemic disaster declaration
24 issued by the governor under Chapter 418A that is in effect for more
25 than 30 days following the governor's renewal of the declaration
26 under that chapter;

27 (2) review proclamations, orders, or rules issued or

1 adopted by the governor and any orders issued by a county or
2 municipality for the pandemic disaster declaration; and

3 (3) terminate in accordance with Section 418A.055:

4 (A) the state of pandemic disaster; or

5 (B) provisions of proclamations, orders, or
6 rules issued or adopted by the governor or orders issued by a county
7 or municipality for the pandemic disaster declaration.

8 (c) Except as otherwise provided by this chapter, the
9 committee has all other powers and duties provided to a special
10 committee by:

11 (1) Subchapter B, Chapter 301;

12 (2) the rules of the senate and house of
13 representatives; and

14 (3) policies of the senate and house committees on
15 administration.

16 Sec. 329.005. MEETINGS; QUORUM. (a) The committee shall
17 meet at the call of the joint chairs.

18 (b) The joint chairs shall convene the committee on or as
19 soon as practicable after the date a state of pandemic disaster is
20 first renewed by the governor under Chapter 418A unless the
21 legislature is convened in regular or special session.

22 (c) A majority of the members of the committee from each
23 house constitutes a quorum to transact business. Termination of a
24 state of pandemic disaster may only be ordered by a majority of the
25 committee's membership. If a quorum is present, the committee may
26 act on any other matter within its jurisdiction by a majority vote.

27 (d) Notice of a meeting of the committee must be posted at

1 least five calendar days before the date of the meeting, in the same
2 manner that meeting notices are posted for standing committees of
3 the senate and house of representatives.

4 (e) As an exception to Chapter 551 and other law, the
5 committee may meet by use of video conference call. This subsection
6 applies for purposes of constituting a quorum, for purposes of
7 voting, and for any other purpose allowing a member of the committee
8 to fully participate in a meeting of the committee. A meeting held
9 by use of video conference call:

10 (1) must be open to the public, including by video
11 broadcasting the meeting in real time through the Internet website
12 of the senate or house of representatives;

13 (2) must specify in the meeting notice the link to the
14 video broadcast described by Subdivision (1); and

15 (3) must provide for the entire meeting two-way video
16 communication between all committee members attending the meeting
17 and if, at any time, the two-way video communication link with a
18 member attending the meeting is disrupted, the meeting may not
19 continue until that link is reestablished.

20 SECTION 2. Subtitle B, Title 4, Government Code, is amended
21 by adding Chapter 418A to read as follows:

22 CHAPTER 418A. PANDEMIC EMERGENCY MANAGEMENT

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Sec. 418A.001. SHORT TITLE. This chapter may be cited as
25 the Texas Pandemic Response Act.

26 Sec. 418A.002. PURPOSES. The purposes of this chapter are
27 to:

1 (1) protect and preserve individual liberties
2 guaranteed under the United States Constitution and the Texas
3 Constitution;

4 (2) reduce the vulnerability of residents and
5 communities in this state to damage, injury, and loss of life and
6 property resulting from a pandemic disaster;

7 (3) prepare for prompt and efficient care and
8 treatment of persons victimized or threatened by a pandemic
9 disaster;

10 (4) maintain employment levels for state residents to
11 the extent possible;

12 (5) provide a setting conducive to the rapid and
13 orderly restoration and rehabilitation of persons and property
14 affected by a pandemic disaster;

15 (6) clarify the roles of the governor, state agencies,
16 the judicial branch of state government, and the political
17 subdivisions of this state in the prevention of, preparation for,
18 response to, and recovery from a pandemic disaster;

19 (7) authorize and provide for cooperation in pandemic
20 disaster mitigation, preparedness, response, and recovery;

21 (8) authorize and coordinate activities relating to
22 pandemic disaster mitigation, preparedness, response, and recovery
23 by state agencies and officers and similar state-local, interstate,
24 federal-state, and foreign activities in which this state and the
25 political subdivisions of this state may participate;

26 (9) provide an emergency management system addressing
27 all aspects of pandemic preparedness and response; and

1 (10) assist in the mitigation of pandemic disasters
2 aggravated by inadequate planning for and regulation of public and
3 private resources.

4 Sec. 418A.003. DEFINITIONS. In this chapter:

5 (1) "Division" means the Texas Division of Emergency
6 Management.

7 (2) "Pandemic disaster" means the occurrence or
8 imminent threat of an outbreak of an infectious disease that
9 spreads to a significant portion of the state population and that
10 threatens widespread or severe damage, injury, or loss of life or
11 property in more than one-fourth of the counties in this state
12 resulting from any natural or man-made cause related to the
13 outbreak.

14 (3) "Political subdivision" means a county or
15 municipality.

16 Sec. 418A.004. LIMITATIONS. This chapter does not:

17 (1) grant the governor authority to enact law;

18 (2) expand the authority granted to the governor under
19 Chapter 418;

20 (3) limit the authority of the governor to apply for,
21 administer, or spend a grant, gift, or payment in aid of pandemic
22 disaster mitigation, preparedness, response, or recovery;

23 (4) interfere with the course or conduct of a labor
24 dispute, except that actions otherwise authorized by this chapter
25 or other laws may be taken when necessary to forestall or mitigate
26 imminent or existing danger to public health or safety;

27 (5) interfere with dissemination of news or comment on

1 public affairs, provided any communications facility or
2 organization, including radio and television stations, wire
3 services, Internet and cellular services, and newspapers, may be
4 requested to transmit or print public service messages providing
5 information or instructions in connection with a pandemic disaster
6 or potential pandemic disaster;

7 (6) affect the jurisdiction or responsibilities of a
8 law enforcement agency, fire department, or unit of the armed
9 forces of the United States, or any of their personnel when on
10 active duty, if state, local, or interjurisdictional emergency
11 management plans rely on the agencies, departments, or units to
12 perform duties related to pandemic disasters;

13 (7) limit, modify, or abridge the authority of the
14 governor to exercise any other power vested in the governor under
15 the constitution or laws of this state independent of or in
16 conjunction with any provision of this chapter;

17 (8) authorize the seizure or confiscation of any
18 firearm or ammunition from an individual who is lawfully carrying
19 or possessing the firearm or ammunition;

20 (9) authorize any person to prohibit or restrict the
21 business operations of a firearms or ammunition manufacturer,
22 distributor, wholesaler, supplier, or retailer or a sport shooting
23 range, as defined by Section 250.001, Local Government Code;

24 (10) affect the level of scrutiny for judicial review
25 of constitutional violations;

26 (11) delegate to any governmental official the
27 authority to modify election procedures; or

1 (12) authorize any governmental official to mandate
2 that an individual obtain a vaccination.

3 Sec. 418A.005. APPLICABILITY OF OTHER LAW. The following
4 provisions of Chapter 418 apply to a state of pandemic disaster
5 declared under this chapter:

6 (1) Subchapter C-1;

7 (2) Subchapter D;

8 (3) Section 418.107;

9 (4) Section 418.1075;

10 (5) Section 418.171;

11 (6) Section 418.1881;

12 (7) Section 418.1882;

13 (8) Section 418.191; and

14 (9) Section 418.193, as added by Chapter 70 (S.B.
15 416), Acts of the 86th Legislature, Regular Session, 2019.

16 Sec. 418A.006. CONFLICT WITH OTHER LAW. To the extent of
17 any conflict between this chapter and Chapter 418, this chapter
18 controls.

19 Sec. 418A.007. PROHIBITION. The presiding officer of the
20 governing body of a political subdivision may not issue an order
21 during a declared state of pandemic disaster or local state of
22 pandemic disaster that:

23 (1) requires specific businesses or industries to
24 close; or

25 (2) distinguishes between types of businesses or
26 industries in limiting operation capacities.

27 Sec. 418A.008. CIVIL LIABILITY DURING PANDEMIC DISASTER.

1 (a) Section 418.006 applies during a declared state of pandemic
2 disaster.

3 (b) A business or an entity operating during a pandemic
4 disaster in this state is not liable for an injury caused by
5 exposing or potentially exposing an individual to a disease if on
6 the date of the exposure or potential exposure:

7 (1) the business or entity is authorized to conduct
8 business in this state;

9 (2) the business or entity made a reasonable effort to
10 comply with applicable and controlling state and local laws, rules,
11 ordinances, declarations, and proclamations related to the
12 pandemic disaster; and

13 (3) the act or omission giving rise to the exposure or
14 potential exposure was not wilful, reckless, or grossly negligent.

15 (c) A person who provides goods or renders services during a
16 pandemic disaster in support of disaster response efforts and at
17 the request of the governor or the governor's designee is not liable
18 for an injury caused by the goods or services, regardless of the
19 circumstances, provided the act or omission giving rise to the
20 injury was not wilful, reckless, grossly negligent, or inconsistent
21 with a limit specified in the governor's request.

22 (d) The immunity provided by this section is in addition to
23 the immunity and limitations of liability provided by other law.

24 (e) This section does not create a civil cause of action.

25 SUBCHAPTER B. POWERS AND DUTIES OF GOVERNOR

26 Sec. 418A.051. EXECUTIVE ORDERS, PROCLAMATIONS, AND RULES.

27 (a) Subject to Section 418A.052, the governor may issue, amend, or

1 rescind an executive order, proclamation, or rule to further the
2 purposes of this chapter.

3 (b) An executive order, proclamation, or rule issued by the
4 governor under this chapter has the force and effect of law.

5 Sec. 418A.052. LIMITATION ON CERTAIN EXECUTIVE ORDERS,
6 PROCLAMATIONS, AND RULES. (a) This section applies only to an
7 executive order, proclamation, or rule issued under this chapter
8 that has the effect of:

9 (1) closing or limiting the operating capacity of a
10 business or other entity;

11 (2) mandating the wearing of a face covering; or

12 (3) limiting surgeries or other procedures that a
13 licensed health care professional or health care facility may
14 perform.

15 (b) An executive order, proclamation, or rule described by
16 Subsection (a) may continue for more than 30 days only if the
17 governor during that period issues:

18 (1) a proclamation convening the legislature in
19 special session that begins during that period to consider whether
20 to modify or terminate the executive order, proclamation, or rule;
21 or

22 (2) if the legislature is convened in regular or
23 special session, a message to the legislature requesting the
24 legislature's consideration of whether to modify or terminate the
25 executive order, proclamation, or rule.

26 (c) The governor may not issue a new executive order,
27 proclamation, or rule based on the same or a substantially similar

1 finding as a prior executive order, proclamation, or rule that was
2 terminated by the legislature under Subsection (b).

3 Sec. 418A.053. LIMITATIONS ON AUTHORITY OF GOVERNOR. (a)
4 Except as expressly provided by this chapter, the governor may
5 exercise the same authority the governor is granted under
6 Subchapter B, Chapter 418, to address a declared state of pandemic
7 disaster.

8 (b) The following provisions of Subchapter B, Chapter 418,
9 do not apply during a declared state of pandemic disaster:

- 10 (1) Section 418.014;
11 (2) Sections 418.016(b), (c), and (d);
12 (3) Section 418.019;
13 (4) Section 418.0195; and
14 (5) Section 418.023.

15 Sec. 418A.054. RELIGIOUS FREEDOM. Actions taken under a
16 declared state of pandemic disaster must satisfy the religious
17 freedom protections of Chapter 110, Civil Practice and Remedies
18 Code, and the Religious Freedom Restoration Act of 1993 (42 U.S.C.
19 Section 2000bb et seq.).

20 Sec. 418A.055. DECLARATION OF STATE OF PANDEMIC DISASTER.
21 (a) The governor by executive order or proclamation may declare a
22 state of pandemic disaster if the governor determines that a state
23 of pandemic disaster is occurring in this state or that the
24 occurrence or threat of a pandemic disaster is imminent.

25 (b) Subject to Subsections (c) and (d), a state of pandemic
26 disaster continues until the governor:

- 27 (1) determines that:

1 (A) the threat of a pandemic disaster has passed;

2 or

3 (B) the pandemic disaster has been addressed to

4 the extent that emergency conditions no longer exist; and

5 (2) terminates the state of pandemic disaster by

6 executive order or proclamation.

7 (c) A state of pandemic disaster may not continue for more

8 than 30 days unless renewed by the governor. If the legislature is

9 convened in regular or special session, the legislature by law may

10 at any time terminate a declared state of pandemic disaster. If the

11 legislature is not convened in session, the Pandemic Disaster

12 Legislative Oversight Committee established under Chapter 329 may

13 at any time terminate:

14 (1) a state of pandemic disaster that is in effect for

15 more than 30 days following the governor's renewal of the

16 declaration; or

17 (2) provisions of proclamations, orders, or rules

18 issued or adopted by the governor or of orders issued by a political

19 subdivision for the pandemic disaster declaration described by

20 Subdivision (1).

21 (d) The governor may not declare a new state of pandemic

22 disaster based on the same or a substantially similar finding as a

23 prior state of pandemic disaster that was terminated or not renewed

24 by the legislature or to circumvent a meeting of the Pandemic

25 Disaster Legislative Oversight Committee convened to review a state

26 of pandemic disaster declaration.

27 (e) On termination of a declared state of pandemic disaster

1 or a provision of a proclamation, order, or rule by the legislature
2 or the Pandemic Disaster Legislative Oversight Committee under this
3 section, the governor shall issue an executive order ending the
4 declared state of pandemic disaster or rescinding those provisions.

5 (f) An executive proclamation or order issued under this
6 section must:

7 (1) include:

8 (A) a description of the nature of the pandemic
9 disaster;

10 (B) a designation of the areas affected or
11 threatened; and

12 (C) a description of the conditions that caused
13 the pandemic disaster or allowed the termination of the pandemic
14 disaster; and

15 (2) be posted on the Internet website of the governor
16 and of any state agency affected by the proclamation or order.

17 (g) The governor shall:

18 (1) promptly disseminate a proclamation or order by
19 any means intended to bring its contents to the attention of the
20 public; and

21 (2) unless the circumstances related to the pandemic
22 disaster prevent or impede the filing, promptly file the
23 proclamation or order with:

24 (A) the division;

25 (B) the secretary of state; and

26 (C) the county clerk or municipal secretary in
27 each area in which the proclamation or order applies.

1 superseded and void to the extent that it is inconsistent with
2 proclamations, orders, or rules issued by the governor or the
3 Department of State Health Services.

4 (b) Any order issued by a municipality in response to a
5 state or local state of pandemic disaster is superseded and void to
6 the extent that it is inconsistent with orders issued by the county
7 judge of the county in which the municipality is located.

8 Sec. 418A.103. LIMITATION ON AD VALOREM TAX RATE OF CERTAIN
9 POLITICAL SUBDIVISIONS. (a) In this section:

10 (1) "No-new-revenue tax rate" and "voter-approval tax
11 rate" have the meanings assigned by Section 26.04, Tax Code.

12 (2) "Tax year" has the meaning assigned by Section
13 1.04, Tax Code.

14 (b) This section applies only to a political subdivision:

15 (1) the presiding officer of the governing body of
16 which issues an order requiring the closure of a private business in
17 response to a pandemic disaster; and

18 (2) for which the governor issues a written
19 determination finding that the presiding officer of the governing
20 body of the political subdivision has taken an action described by
21 Subdivision (1).

22 (c) Notwithstanding Chapter 26, Tax Code, or any other law,
23 the governing body of a political subdivision to which this section
24 applies may not adopt an ad valorem tax rate for the current tax
25 year that exceeds the lesser of the political subdivision's
26 no-new-revenue tax rate or voter-approval tax rate for that tax
27 year.

1 (d) For purposes of making the calculation required under
2 Section 26.013, Tax Code, in a tax year in which this section
3 applies to a political subdivision, the difference between the
4 political subdivision's actual tax rate and voter-approval tax rate
5 is considered to be zero.

6 (e) A political subdivision is no longer subject to the
7 limitation prescribed by this section in the first tax year
8 following the governor's rescission of the written determination
9 issued under Subsection (b)(2).

10 (f) The governor shall adopt rules and procedures necessary
11 to determine whether the presiding officer of a political
12 subdivision has taken an action described by Subsection (b)(1).

13 SUBCHAPTER D. MISCELLANEOUS PROVISIONS

14 Sec. 418A.151. PERSONNEL SURGE CAPACITY PLANNING.

15 Personnel surge capacity planning conducted under this chapter for
16 declared states of pandemic disaster must include plans for
17 providing personal protective equipment to physicians, other
18 health care professionals, and pandemic disaster relief workers and
19 volunteers.

20 SECTION 3. Section 418.004(1), Government Code, is amended
21 to read as follows:

22 (1) "Disaster" means the occurrence or imminent threat
23 of widespread or severe damage, injury, or loss of life or property
24 resulting from any natural or man-made cause, including fire,
25 flood, earthquake, wind, storm, wave action, oil spill or other
26 water contamination, volcanic activity, epidemic, air
27 contamination, blight, drought, infestation, explosion, riot,

1 hostile military or paramilitary action, extreme heat,
2 cybersecurity event, other public calamity requiring emergency
3 action, or energy emergency. The term does not include a pandemic
4 disaster as defined by Section 418A.003.

5 SECTION 4. Section 418.005(b), Government Code, is amended
6 to read as follows:

7 (b) Each person described by Subsection (a) shall complete a
8 course of training provided or approved by the division of not less
9 than three hours regarding the responsibilities of state and local
10 governments under this chapter and Chapter 418A not later than the
11 180th day after the date the person:

12 (1) takes the oath of office, if the person is required
13 to take an oath of office to assume the person's duties as a public
14 officer;

15 (2) otherwise assumes responsibilities as a public
16 officer, if the person is not required to take an oath of office to
17 assume the person's duties; or

18 (3) is designated as an emergency management
19 coordinator under Section 418.1015(c).

20 SECTION 5. Section 418A.008, Government Code, as added by
21 this Act, applies only to a cause of action that accrued on or after
22 March 13, 2020. A cause of action that accrued before March 13,
23 2020, is governed by the law applicable to the cause of action
24 immediately before the effective date of this Act, and that law is
25 continued in effect for that purpose.

26 SECTION 6. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2021.