

1-1 By: Burrows (Senate Sponsor - Birdwell) H.B. No. 3
 1-2 (In the Senate - Received from the House May 12, 2021;
 1-3 May 13, 2021, read first time and referred to Committee on State
 1-4 Affairs; May 24, 2021, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-6 May 24, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 3 By: Birdwell

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the authority of the legislature, governor, and certain
 1-22 political subdivisions with respect to disasters, including
 1-23 pandemic disasters, and emergencies.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 418.002, Government Code, is amended to
 1-26 read as follows:

1-27 Sec. 418.002. PURPOSES. The purposes of this chapter are
 1-28 to:

1-29 (1) reduce vulnerability of people and communities of
 1-30 this state to damage, injury, and loss of life and property
 1-31 resulting from natural or man-made disasters [~~catastrophes, riots,~~
 1-32 ~~or hostile military or paramilitary action~~];

1-33 (2) prepare for prompt and efficient rescue, care, and
 1-34 treatment of persons victimized or threatened by disaster;

1-35 (3) provide a setting conducive to the rapid and
 1-36 orderly restoration and rehabilitation of persons and property
 1-37 affected by disasters;

1-38 (4) clarify and strengthen the roles of the governor,
 1-39 state agencies, the judicial branch of state government, and local
 1-40 governments in prevention of, preparation for, response to, and
 1-41 recovery from disasters;

1-42 (5) authorize and provide for cooperation in disaster
 1-43 mitigation, preparedness, response, and recovery;

1-44 (6) authorize and provide for coordination of
 1-45 activities relating to disaster mitigation, preparedness,
 1-46 response, and recovery by agencies and officers of this state, and
 1-47 similar state-local, interstate, federal-state, and foreign
 1-48 activities in which the state and its political subdivisions may
 1-49 participate;

1-50 (7) provide an emergency management system embodying
 1-51 all aspects of predisaster preparedness and postdisaster response;

1-52 (8) assist in mitigation of disasters caused or
 1-53 aggravated by inadequate planning for and regulation of public and
 1-54 private facilities and land use;

1-55 (9) encourage state agencies, local governments,
 1-56 nongovernmental organizations, private entities, and individuals
 1-57 to adopt the goals of the strategic plan of the Federal Emergency
 1-58 Management Agency for preparing for, responding to, and recovering
 1-59 from a disaster that emphasize cooperation among federal agencies,
 1-60 state agencies, local governments, nongovernmental organizations,

2-1 private entities, and individuals in each activity or project
2-2 undertaken to ensure that this state is prepared to effectively
2-3 respond to and recover from a disaster; and

2-4 (10) provide the authority and mechanism to respond to
2-5 an energy emergency.

2-6 SECTION 2. Section 418.004(1), Government Code, is amended
2-7 to read as follows:

2-8 (1) "Disaster" means the occurrence or imminent threat
2-9 of widespread or severe damage, injury, or loss of life or property
2-10 resulting from any natural or man-made cause not related to the use
2-11 of force or violence such as civil unrest, riots, or insurrection.
2-12 The term includes~~[including]~~ fire, flood, earthquake, wind,
2-13 storm, wave action, oil spill or other water contamination,
2-14 volcanic activity, epidemic, pandemic, air contamination, blight,
2-15 drought, infestation, explosion, ~~[riot, hostile military or~~
2-16 ~~paramilitary action]~~ extreme heat, cybersecurity event, other
2-17 public calamity requiring emergency action, or energy emergency.

2-18 SECTION 3. Subchapter B, Chapter 418, Government Code, is
2-19 amended by adding Section 418.0125 to read as follows:

2-20 Sec. 418.0125. CERTAIN POWER RELATED TO BUSINESSES RESERVED
2-21 TO LEGISLATURE. (a) Notwithstanding any other law, during a
2-22 declared state of disaster, only the legislature has the authority
2-23 to restrict or impair the operation or occupancy of businesses in
2-24 this state by category or region to appropriately respond to the
2-25 disaster. The legislature may only exercise the authority granted
2-26 by this subsection in a county after consulting with the county
2-27 judge of each county impacted by the disaster.

2-28 (b) The governor by proclamation shall convene the
2-29 legislature in special session to respond to a declared state of
2-30 disaster if the governor finds that the authority of the
2-31 legislature under Subsection (a) should be exercised and the
2-32 legislature is not convened in regular or special session.

2-33 SECTION 4. Section 418.014, Government Code, is amended by
2-34 amending Subsections (b) and (c) and adding Subsection (c-1) to
2-35 read as follows:

2-36 (b) Except as provided by Subsection (c) or (c-1), the state
2-37 of disaster continues until the governor:

- 2-38 (1) finds that:
2-39 (A) the threat or danger has passed; or
2-40 (B) the disaster has been dealt with to the
2-41 extent that emergency conditions no longer exist; and
2-42 (2) terminates the state of disaster by executive
2-43 order.

2-44 (c) A state of disaster may not continue for more than 30
2-45 days unless renewed by the governor, subject to Subsection (c-1).
2-46 The legislature by law may terminate a state of disaster at any
2-47 time. On termination by the legislature, the governor shall issue
2-48 an executive order ending the state of disaster.

2-49 (c-1) Unless authorized by the legislature while convened
2-50 in a regular or special session, the governor may not renew a state
2-51 of disaster to continue for more than 60 days or declare a new state
2-52 of disaster based on the same or substantially similar findings as a
2-53 prior state of disaster that:

- 2-54 (1) exists in at least two-fifths of the counties in
2-55 this state; or
2-56 (2) affects at least half of the population of this
2-57 state, according to the most recent federal decennial census.

2-58 SECTION 5. Section 418.0155, Government Code, is amended by
2-59 adding Subsections (c) and (d) to read as follows:

2-60 (c) The governor's office shall publish the list compiled
2-61 under Subsection (a) on the office's Internet website.

2-62 (d) Each state agency impacted by the suspension of a
2-63 statute or rule on the list compiled under Subsection (a) shall
2-64 publish on the agency's Internet website a list of those statutes
2-65 and rules. The agency's list must be:

- 2-66 (1) posted or updated within 24 hours of any
2-67 suspension; and
2-68 (2) accessible by selecting or viewing not more than
2-69 two Internet web pages after accessing the agency's Internet home

3-1 page.

3-2 SECTION 6. Section 418.016(a), Government Code, is amended
3-3 to read as follows:

3-4 (a) Subject to Sections 418.0125 and 418.0165, the [The]
3-5 governor may suspend the provisions of any regulatory statute
3-6 prescribing the procedures for conduct of state business or the
3-7 orders or rules of a state agency if strict compliance with the
3-8 provisions, orders, or rules would in any way prevent, hinder, or
3-9 delay necessary action in coping with a disaster.

3-10 SECTION 7. Subchapter B, Chapter 418, Government Code, is
3-11 amended by adding Section 418.0165 to read as follows:

3-12 Sec. 418.0165. LIMITATION ON POWER TO SUSPEND LAWS OR
3-13 RULES. (a) Notwithstanding any provision of this chapter, the
3-14 governor may not suspend:

3-15 (1) a provision of this chapter or Chapter 433; or

3-16 (2) a law or rule related to the application of Chapter
3-17 325 (Texas Sunset Act), the suspension of which results in the
3-18 continuation of a state agency beyond the date prescribed in
3-19 statute for the abolishment of the agency.

3-20 (b) Except as provided by Subsection (d), the governor may
3-21 suspend a provision of the Code of Criminal Procedure, Election
3-22 Code, or Penal Code only during the first 30 days of a declared
3-23 state of disaster.

3-24 (c) If the governor finds that a suspension authorized by
3-25 Subsection (b) should be continued for more than 30 days and the
3-26 legislature is not convened in regular or special session, the
3-27 governor by proclamation shall convene the legislature in special
3-28 session to respond to a state of disaster.

3-29 (d) Except as provided by this subsection, the governor may
3-30 not suspend a provision of the Election Code related to the
3-31 qualifications or procedures for early voting by mail or to the
3-32 procedures for accepting a voter during any voting period,
3-33 including procedures related to voter identification, residency,
3-34 and signature requirements, except that the governor may suspend
3-35 Section 86.006(a-1), Election Code, only for the purpose of
3-36 allowing a voter registered to vote at an address located in a
3-37 disaster area to deliver a marked ballot voted under Section
3-38 86.006(a-1) to the early voting clerk's office on or before
3-39 election day. This subsection does not prohibit the governor from
3-40 suspending a provision of the Election Code to extend the voting
3-41 period for early voting by mail as necessary to address the declared
3-42 disaster.

3-43 SECTION 8. Subchapter B, Chapter 418, Government Code, is
3-44 amended by adding Section 418.027 to read as follows:

3-45 Sec. 418.027. PREEMPTION OF DECLARATION OF LOCAL DISASTER.
3-46 A declaration of local disaster issued under Subchapter E may not
3-47 conflict with, or expand or limit the scope of, a declaration of
3-48 disaster issued under this subchapter unless expressly authorized
3-49 by a proclamation or executive order issued by the governor under
3-50 this chapter.

3-51 SECTION 9. Section 433.001, Government Code, is amended to
3-52 read as follows:

3-53 Sec. 433.001. PROCLAMATION OF STATE OF EMERGENCY. On
3-54 application of the chief executive officer or governing body of a
3-55 county or municipality during an emergency, the governor may
3-56 proclaim a state of emergency and designate the area involved. For
3-57 the purposes of this section an emergency exists in the following
3-58 situations:

3-59 (1) a riot or unlawful assembly by three or more
3-60 persons acting together by use of force or violence;

3-61 (2) if a clear and present danger of the use of force
3-62 or violence exists; or

3-63 (3) a natural or man-made disaster related to the use
3-64 of force or violence such as civil unrest or insurrection.

3-65 SECTION 10. Section 433.002, Government Code, is amended by
3-66 amending Subsection (b) and adding Subsection (d) to read as
3-67 follows:

3-68 (b) Subject to Section 433.0025, the [The] directive may
3-69 provide for:

- 4-1 (1) control of public and private transportation in
- 4-2 the affected area;
- 4-3 (2) designation of specific zones in the affected area
- 4-4 in which, if necessary, the use and occupancy of buildings and
- 4-5 vehicles may be controlled;
- 4-6 (3) control of the movement of persons;
- 4-7 (4) control of places of amusement or assembly;
- 4-8 (5) establishment of curfews;
- 4-9 (6) control of the sale, transportation, and use of
- 4-10 alcoholic beverages, weapons, and ammunition, except as provided by
- 4-11 Section 433.0045; and
- 4-12 (7) control of the storage, use, and transportation of
- 4-13 explosives or flammable materials considered dangerous to public
- 4-14 safety.

4-15 (d) A directive issued under this section applies only
 4-16 within the jurisdictional boundaries of the county or municipality
 4-17 for which an application was made under Section 433.001.

4-18 SECTION 11. Chapter 433, Government Code, is amended by
 4-19 adding Section 433.0025 to read as follows:

4-20 Sec. 433.0025. CERTAIN POWER RELATED TO BUSINESSES RESERVED
 4-21 TO LEGISLATURE. (a) During a state of emergency, only the
 4-22 legislature has the authority to restrict or impair the operation
 4-23 or occupancy of businesses in this state by category or region to
 4-24 appropriately respond to the emergency.

4-25 (b) The governor by proclamation shall convene the
 4-26 legislature in special session to respond to a state of emergency if
 4-27 the governor finds that the authority of the legislature under
 4-28 Subsection (a) should be exercised and the legislature is not
 4-29 convened in regular or special session.

4-30 SECTION 12. Section 433.003, Government Code, is amended by
 4-31 amending Subsection (a) and adding Subsection (c) to read as
 4-32 follows:

4-33 (a) Except as provided by Subsections [Subsection] (b) and
 4-34 (c), a directive expires 72 hours after the time of proclamation of
 4-35 the state of emergency for which it was issued.

4-36 (c) Unless authorized by the legislature while convened in a
 4-37 regular or special session, the governor may not proclaim
 4-38 successive states of emergency to continue for more than 60 days or
 4-39 proclaim a new state of emergency based on the same or substantially
 4-40 similar findings as a prior state of emergency that:

4-41 (1) exists in at least two-fifths of the counties in
 4-42 this state; or

4-43 (2) affects at least half of the population of this
 4-44 state, according to the most recent federal decennial census.

4-45 SECTION 13. Section 418.019, Government Code, is repealed.

4-46 SECTION 14. The changes in law made by this Act apply only
 4-47 to an order, proclamation, regulation, or directive issued on or
 4-48 after the effective date of this Act.

4-49 SECTION 15. This Act takes effect September 1, 2021.

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