

1-1 By: Kolkhorst S.B. No. 968  
 1-2 (In the Senate - Filed March 3, 2021; March 11, 2021, read  
 1-3 first time and referred to Committee on Health & Human Services;  
 1-4 April 19, 2021, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 19, 2021,  
 1-6 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 S.B. No. 968 By: Hall

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

1-21 relating to public health disaster and public health emergency  
 1-22 preparedness and response; providing a civil penalty.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter C, Chapter 418, Government Code, is  
 1-25 amended by adding Section 418.0435 to read as follows:

1-26 Sec. 418.0435. PERSONAL PROTECTIVE EQUIPMENT CONTRACTS.

1-27 (a) The division shall enter into a contract with a manufacturer of  
 1-28 personal protective equipment that guarantees a set amount and  
 1-29 stocked supply of the equipment for use during a public health  
 1-30 disaster declared under Section 81.0813, Health and Safety Code.

1-31 (b) The division may purchase personal protective equipment  
 1-32 under a contract described by Subsection (a) only if the division  
 1-33 determines the state's supply of personal protective equipment will  
 1-34 be insufficient based on an evaluation of the personal protective  
 1-35 equipment:

1-36 (1) held in reserve in this state; and

1-37 (2) supplied by or expected to be supplied by the  
 1-38 federal government.

1-39 (c) The division shall pursue all available federal funding  
 1-40 to cover the costs of personal protective equipment purchased under  
 1-41 a contract described by Subsection (a).

1-42 SECTION 2. The heading to Subtitle D, Title 2, Health and  
 1-43 Safety Code, is amended to read as follows:

1-44 SUBTITLE D. PREVENTION, CONTROL, AND REPORTS OF DISEASES; PUBLIC  
 1-45 HEALTH DISASTERS AND EMERGENCIES

1-46 SECTION 3. The heading to Chapter 81, Health and Safety  
 1-47 Code, is amended to read as follows:

1-48 CHAPTER 81. COMMUNICABLE DISEASES; PUBLIC HEALTH DISASTERS; PUBLIC  
 1-49 HEALTH EMERGENCIES

1-50 SECTION 4. Section 81.003, Health and Safety Code, is  
 1-51 amended by amending Subdivision (7) and adding Subdivision (7-a) to  
 1-52 read as follows:

1-53 (7) "Public health disaster" means:

1-54 (A) a declaration by the governor of a state of  
 1-55 disaster; and

1-56 (B) a determination by the commissioner that  
 1-57 there exists an immediate threat from a communicable disease,  
 1-58 health condition, or chemical, biological, radiological, or  
 1-59 electromagnetic exposure that:

1-60 (i) poses a high risk of death or serious

2-1 harm [long-term disability] to the public [a large number of  
 2-2 people]; and

2-3 (ii) creates a substantial risk of harmful  
 2-4 public exposure [because of the disease's high level of contagion  
 2-5 or the method by which the disease is transmitted].

2-6 (7-a) "Public health emergency" means a determination  
 2-7 by the commissioner, evidenced in an emergency order issued by the  
 2-8 commissioner, that there exists an immediate threat from a  
 2-9 communicable disease, health condition, or chemical, biological,  
 2-10 radiological, or electromagnetic exposure that:

2-11 (A) potentially poses a risk of death or severe  
 2-12 illness or harm to the public; and

2-13 (B) potentially creates a substantial risk of  
 2-14 harmful exposure to the public.

2-15 SECTION 5. The heading to Subchapter B, Chapter 81, Health  
 2-16 and Safety Code, is amended to read as follows:

2-17 SUBCHAPTER B. PREVENTION AND PREPAREDNESS

2-18 SECTION 6. Section 81.044, Health and Safety Code, is  
 2-19 amended by adding Subsection (b-1) to read as follows:

2-20 (b-1) In this subsection, "cycle threshold value" means for  
 2-21 a communicable disease test the number of thermal cycles required  
 2-22 for the fluorescent signal to exceed that of the background and  
 2-23 cross the threshold for a positive test. The executive  
 2-24 commissioner shall require the reports to contain the cycle  
 2-25 threshold values and their reference ranges for the reportable  
 2-26 disease that is the subject of the report.

2-27 SECTION 7. Section 81.081, Health and Safety Code, is  
 2-28 amended to read as follows:

2-29 Sec. 81.081. DEPARTMENT'S DUTY. The department is the  
 2-30 preemptive authority for purposes of this chapter and shall  
 2-31 coordinate statewide or regional efforts to protect public health.  
 2-32 The department shall collaborate with local elected officials,  
 2-33 including county and municipal officials, [impose control  
 2-34 measures] to prevent the spread of disease and [in the exercise of  
 2-35 its power to] protect the public health.

2-36 SECTION 8. Subchapter E, Chapter 81, Health and Safety  
 2-37 Code, is amended by adding Sections 81.0813, 81.0814, and 81.0815  
 2-38 to read as follows:

2-39 Sec. 81.0813. AUTHORITY TO DECLARE PUBLIC HEALTH DISASTER  
 2-40 OR ORDER PUBLIC HEALTH EMERGENCY. (a) The commissioner may declare  
 2-41 a statewide or regional public health disaster or order a statewide  
 2-42 or regional public health emergency if the commissioner determines  
 2-43 an occurrence or threat to public health is imminent. The  
 2-44 commissioner may declare a public health disaster only if the  
 2-45 governor declares a state of disaster under Chapter 418, Government  
 2-46 Code, for the occurrence or threat.

2-47 (b) Except as provided by Subsection (c), a public health  
 2-48 disaster or public health emergency continues until the governor or  
 2-49 commissioner terminates the disaster or emergency on a finding  
 2-50 that:

2-51 (1) the threat or danger has passed; or

2-52 (2) the disaster or emergency has been managed to the  
 2-53 extent emergency conditions no longer exist.

2-54 (c) A public health disaster or public health emergency  
 2-55 expires on the 30th day after the date the disaster or emergency is  
 2-56 declared or ordered by the commissioner. A public health disaster  
 2-57 or public health emergency may only be renewed by the legislature or  
 2-58 a designated legislative oversight board that has been granted  
 2-59 authority under a statute enacted by the legislature to renew a  
 2-60 public health disaster declaration or public health emergency  
 2-61 order. Each renewal period may not exceed 30 days.

2-62 (d) A declaration or order issued under this section must  
 2-63 include:

2-64 (1) a description of the nature of the disaster or  
 2-65 emergency;

2-66 (2) a designation of the area threatened by the  
 2-67 disaster or emergency;

2-68 (3) a description of the condition that created the  
 2-69 disaster or emergency; and

3-1 (4) if applicable:

3-2 (A) the reason for renewing the disaster or  
 3-3 emergency; or

3-4 (B) the reason for terminating the disaster or  
 3-5 emergency.

3-6 (e) A declaration or order issued under this section must be  
 3-7 disseminated promptly by means intended to bring its contents to  
 3-8 the public's attention. A statewide or regional declaration or  
 3-9 order shall be filed promptly with the office of the governor and  
 3-10 the secretary of state. A regional declaration or order shall be  
 3-11 filed with the county clerk or municipal secretary in each area to  
 3-12 which it applies, unless the circumstances attendant on the  
 3-13 disaster or emergency prevent or impede the filing.

3-14 Sec. 81.0814. EXPERT PANEL. (a) Immediately after  
 3-15 declaring a public health disaster or issuing a public health  
 3-16 emergency order, the commissioner shall appoint an expert panel  
 3-17 composed of five physicians and four other health care providers  
 3-18 who have extensive experience involving treatments, therapeutics,  
 3-19 and prophylactics for communicable diseases and other important  
 3-20 knowledge and experience related to the disaster or order.

3-21 (b) The commissioner shall appoint a presiding officer for  
 3-22 the expert panel.

3-23 (c) The expert panel shall meet during the public health  
 3-24 disaster or emergency to provide recommendations on the disaster or  
 3-25 emergency to the chief state epidemiologist appointed under Section  
 3-26 1001.0515.

3-27 (d) The expert panel is abolished on the termination of the  
 3-28 public health disaster or emergency for which the panel was  
 3-29 established.

3-30 Sec. 81.0815. FAILURE TO REPORT; CIVIL PENALTY. (a) A  
 3-31 health care facility that fails to submit a report required by the  
 3-32 department under a public health disaster or emergency is liable to  
 3-33 this state for a civil penalty of not more than \$1,000 for each  
 3-34 failure.

3-35 (b) The attorney general at the request of the department  
 3-36 may bring an action to collect a civil penalty imposed under this  
 3-37 section.

3-38 SECTION 9. Subchapter A, Chapter 161, Health and Safety  
 3-39 Code, is amended by adding Section 161.0085 to read as follows:

3-40 Sec. 161.0085. COVID-19 VACCINE PASSPORTS PROHIBITED. (a)  
 3-41 In this section, "COVID-19" means the 2019 novel coronavirus  
 3-42 disease.

3-43 (b) A governmental entity in this state may not issue a  
 3-44 vaccine passport, vaccine pass, or other standardized  
 3-45 documentation to certify an individual's COVID-19 vaccination  
 3-46 status to a third party for a purpose other than health care or  
 3-47 otherwise publish or share any individual's COVID-19 immunization  
 3-48 record or similar health information for a purpose other than  
 3-49 health care.

3-50 (c) A business in this state may not require a customer to  
 3-51 provide any documentation certifying the customer's COVID-19  
 3-52 vaccination or post-transmission recovery on entry to, to gain  
 3-53 access to, or to receive service from the business. A business that  
 3-54 fails to comply with this subsection is not eligible to receive a  
 3-55 grant or enter into a contract payable with state funds.

3-56 (d) Notwithstanding any other law, each appropriate state  
 3-57 agency shall ensure that businesses in this state comply with  
 3-58 Subsection (c) and may require compliance with that subsection as a  
 3-59 condition for a license, permit, or other state authorization  
 3-60 necessary for conducting business in this state.

3-61 (e) This section may not be construed to:

3-62 (1) restrict a business from implementing COVID-19  
 3-63 screening and infection control protocols in accordance with state  
 3-64 and federal law to protect public health; or

3-65 (2) interfere with an individual's right to access the  
 3-66 individual's personal health information under federal law.

3-67 SECTION 10. Subchapter C, Chapter 1001, Health and Safety  
 3-68 Code, is amended by adding Section 1001.0515 to read as follows:

3-69 Sec. 1001.0515. OFFICE OF CHIEF STATE EPIDEMIOLOGIST. (a)

4-1 The commissioner shall:

4-2 (1) establish an Office of Chief State Epidemiologist  
 4-3 within the department to provide expertise in public health  
 4-4 activities and policy in this state by:

4-5 (A) evaluating epidemiologic, medical, and  
 4-6 health care information; and

4-7 (B) identifying pertinent research and  
 4-8 evidence-based best practices; and

4-9 (2) appoint a physician licensed to practice medicine  
 4-10 in this state as the chief state epidemiologist to administer the  
 4-11 Office of Chief State Epidemiologist.

4-12 (b) The chief state epidemiologist must:

4-13 (1) be board certified in a medical specialty; and

4-14 (2) have significant experience in public health and  
 4-15 an advanced degree in public health, epidemiology, or a related  
 4-16 field.

4-17 (c) The chief state epidemiologist serves as:

4-18 (1) the department expert on epidemiological matters  
 4-19 and on communicable and noncommunicable diseases; and

4-20 (2) the department's senior science representative and  
 4-21 primary contact for the Centers for Disease Control and Prevention  
 4-22 and other federal agencies related to epidemiologic science and  
 4-23 disease surveillance.

4-24 (d) The chief state epidemiologist shall report to the state  
 4-25 operations center, under the direction of the chief of the Texas  
 4-26 Division of Emergency Management, during a declared public health  
 4-27 disaster to provide expertise and support this state's response to  
 4-28 the disaster.

4-29 (e) The chief state epidemiologist may provide professional  
 4-30 and scientific consultation regarding epidemiology and disease  
 4-31 control, harmful exposure, and injury prevention to state agencies,  
 4-32 health facilities, health service regions, local health  
 4-33 authorities, local health departments, and other entities.

4-34 (f) Notwithstanding any other law, the chief state  
 4-35 epidemiologist may access information from the department to  
 4-36 implement duties of the epidemiologist's office. Reports, records,  
 4-37 and information provided to the Office of Chief State  
 4-38 Epidemiologist that relate to an epidemiologic or toxicologic  
 4-39 investigation of human illness or conditions and of environmental  
 4-40 exposure that are harmful or believed to be harmful to the public  
 4-41 health are confidential and not subject to disclosure under Chapter  
 4-42 552, Government Code, and may not be released or made public on  
 4-43 subpoena or otherwise, except for statistical purposes if released  
 4-44 in a manner that prevents identification of any person.

4-45 SECTION 11. Sections 81.082(d) and (e), Health and Safety  
 4-46 Code, are repealed.

4-47 SECTION 12. (a) In this section, "council" means the  
 4-48 Preparedness Coordinating Council advisory committee established  
 4-49 by the Health and Human Services Commission under Section 1001.035,  
 4-50 Health and Safety Code, for the Department of State Health  
 4-51 Services.

4-52 (b) Under the direction of the emergency management council  
 4-53 established by the governor under Section 418.013, Government Code,  
 4-54 the council shall conduct a study on this state's response to the  
 4-55 2019 novel coronavirus disease. The council shall examine the  
 4-56 roles of the Department of State Health Services, the Health and  
 4-57 Human Services Commission, and the Texas Division of Emergency  
 4-58 Management relating to public health disaster and emergency  
 4-59 planning and response efforts and determine the efficacy of the  
 4-60 state emergency operations plan in appropriately identifying  
 4-61 agency responsibilities. The council may collaborate with an  
 4-62 institution of higher education in this state to conduct the study.

4-63 (c) Not later than December 1, 2022, the council shall  
 4-64 prepare and submit a written report to the governor, the lieutenant  
 4-65 governor, the speaker of the house of representatives, and the  
 4-66 members of the legislature on the results of the study conducted  
 4-67 under Subsection (b) of this section. The report must include  
 4-68 recommendations for legislative improvements for public health  
 4-69 disaster and public health emergency response and preparedness.

5-1 (d) This section expires September 1, 2023.

5-2 SECTION 13. (a) The Department of State Health Services  
5-3 and the Preparedness Coordinating Council advisory committee are  
5-4 required to implement this Act only if the legislature appropriates  
5-5 money specifically for that purpose. If the legislature does not  
5-6 appropriate money specifically for that purpose, the department and  
5-7 council may, but are not required to, implement this Act using other  
5-8 appropriations available for that purpose.

5-9 (b) The Department of State Health Services shall use any  
5-10 available federal money to implement this Act.

5-11 SECTION 14. This Act takes effect immediately if it  
5-12 receives a vote of two-thirds of all the members elected to each  
5-13 house, as provided by Section 39, Article III, Texas Constitution.  
5-14 If this Act does not receive the vote necessary for immediate  
5-15 effect, this Act takes effect September 1, 2021.

5-16

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