

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Burrows

H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to state and local government responses to a pandemic  
3 disaster, including the establishment of the Pandemic Disaster  
4 Legislative Oversight Committee, and to in-person hospital  
5 visitation during a disaster.

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

7 SECTION 1. Section 61.003(6), Education Code, is amended to  
8 read as follows:

9 (6) "Other agency of higher education" means The  
10 University of Texas System, System Administration; The University  
11 of Texas at El Paso Museum; Texas Epidemic Public Health Institute  
12 at The University of Texas Health Science Center at Houston; The  
13 Texas A&M University System, Administrative and General Offices;  
14 Texas A&M AgriLife Research; Texas A&M AgriLife Extension Service;  
15 Rodent and Predatory Animal Control Service (a part of the Texas A&M  
16 AgriLife Extension Service); Texas A&M Engineering Experiment  
17 Station (including the Texas A&M Transportation Institute); Texas  
18 A&M Engineering Extension Service; Texas A&M Forest Service; Texas  
19 Division of Emergency Management; Texas Tech University Museum;  
20 Texas State University System, System Administration; Sam Houston  
21 Memorial Museum; Panhandle-Plains Historical Museum; Cotton  
22 Research Committee of Texas; Texas Water Resources Institute; Texas  
23 A&M Veterinary Medical Diagnostic Laboratory; and any other unit,  
24 division, institution, or agency which shall be so designated by

1 statute or which may be established to operate as a component part  
2 of any public senior college or university, or which may be so  
3 classified as provided in this chapter.

4 SECTION 2. Chapter 75, Education Code, is amended by adding  
5 Subchapter D to read as follows:

6 SUBCHAPTER D. TEXAS EPIDEMIC PUBLIC HEALTH INSTITUTE

7 Sec. 75.301. DEFINITIONS. In this subchapter:

8 (1) "Board" means the board of regents of The  
9 University of Texas System.

10 (2) "Health science center" means The University of  
11 Texas Health Science Center at Houston.

12 (3) "Institute" means the Texas Epidemic Public Health  
13 Institute.

14 Sec. 75.302. ESTABLISHMENT. The board shall establish and  
15 maintain the Texas Epidemic Public Health Institute at the health  
16 science center.

17 Sec. 75.303. ROLE AND SCOPE. The institute shall establish  
18 and maintain a public health reserve network of public health  
19 professionals, community health workers, state and local public  
20 health agencies, health care organizations, universities  
21 throughout the state, and other relevant entities and persons for  
22 the purpose of coordinating efforts to:

23 (1) protect public health in this state;

24 (2) support pandemic and epidemic disaster  
25 preparedness and response components of the state emergency  
26 management plan required by Section 418.042, Government Code; and

27 (3) advise and make recommendations to the Pandemic

1 Disaster Legislative Oversight Committee established under Chapter  
2 329, Government Code.

3 Sec. 75.304. ADMINISTRATION. (a) The administration of  
4 the institute is under the direction of the chancellor of The  
5 University of Texas System and the board through the president of  
6 the health science center.

7 (b) The Department of State Health Services shall provide  
8 the institute with access to relevant and timely data necessary for  
9 the institute to perform its duties.

10 Sec. 75.305. GIFTS, GRANTS, AND DONATIONS. The institute  
11 may accept gifts, grants, and donations from any source for the  
12 purposes of the institute.

13 Sec. 75.306. INDEPENDENT FINANCIAL AUDIT FOR REVIEW BY  
14 COMPTROLLER. (a) The institute biennially shall commission an  
15 independent financial audit of its activities from a certified  
16 public accounting firm. The institute shall provide the audit to  
17 the comptroller.

18 (b) The comptroller shall review and evaluate the audit and  
19 biennially issue a public report of that review.

20 Sec. 75.307. APPROPRIATION CONTINGENCY. The board is  
21 required to implement a provision of this subchapter only if the  
22 legislature appropriates money specifically for that purpose. If  
23 the legislature does not appropriate money specifically for that  
24 purpose, the board may, but is not required to, implement the  
25 provision using other money available to the board for that  
26 purpose.

27 SECTION 3. Subtitle C, Title 3, Government Code, is amended

1 by adding Chapter 329 to read as follows:

2 CHAPTER 329. PANDEMIC DISASTER LEGISLATIVE OVERSIGHT COMMITTEE

3 Sec. 329.001. DEFINITIONS. In this chapter:

4 (1) "Committee" means the Pandemic Disaster  
5 Legislative Oversight Committee.

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

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

10 (1) consider the impact on this state and its  
11 residents of a state of pandemic disaster declared by the governor;  
12 and

13 (2) provide legislative oversight of pandemic  
14 disaster declarations.

15 (b) The committee is composed of 16 members as follows:

16 (1) the lieutenant governor;

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

18 (3) the chair of the Senate Committee on Finance or its  
19 successor;

20 (4) the chair of the Senate Committee on State Affairs  
21 or its successor;

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

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

26 (7) the chair of the House Committee on Appropriations  
27 or its successor;

1           (8) the chair of the House Committee on State Affairs  
2 or its successor;

3           (9) the chair of the House Committee on Public Health  
4 or its successor;

5           (10) the chair of the House Committee on Public  
6 Education or its successor;

7           (11) two additional members appointed by the  
8 lieutenant governor and two additional members appointed by the  
9 speaker of the house to ensure ethnic minority representation on  
10 the committee from the respective ethnic communities;

11           (12) the chair of the House Committee on Criminal  
12 Jurisprudence or its successor; and

13           (13) the chair of the Senate Committee on Criminal  
14 Justice or its successor.

15           (c) Notwithstanding Subsection (b), any member of the  
16 senate or house of representatives may submit a written request to  
17 the joint chairs of the committee to participate in the committee's  
18 proceedings to the extent practical. When participation is not  
19 practical, the joint chairs of the committee must establish  
20 procedures for requesting members to audit proceedings and must  
21 provide to requesting members updates on committee proceedings.

22           Sec. 329.003. JOINT CHAIRS. The lieutenant governor and  
23 speaker of the house of representatives serve as joint chairs of the  
24 committee.

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

1       (b) The committee is authorized to:

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

6           (2) review proclamations, orders, or rules issued or  
7 adopted by the governor and any orders issued by a county or  
8 municipality for the pandemic disaster declaration; and

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

10           (A) the state of pandemic disaster; or

11           (B) provisions of proclamations, orders, or  
12 rules issued or adopted by the governor or orders issued by a county  
13 or municipality for the pandemic disaster declaration.

14       (c) Except as otherwise provided by this chapter, the  
15 committee has all other powers and duties provided to a special  
16 committee by:

17           (1) Subchapter B, Chapter 301;

18           (2) the rules of the senate and house of  
19 representatives; and

20           (3) policies of the senate and house committees on  
21 administration.

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

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

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

6       (d) Notice of a meeting of the committee must be posted at  
7 least five calendar days before the date of the meeting, in the same  
8 manner that meeting notices are posted for standing committees of  
9 the senate and house of representatives.

10       (e) As an exception to Chapter 551 and other law, the  
11 committee may meet by use of video conference call. This subsection  
12 applies for purposes of constituting a quorum, for purposes of  
13 voting, and for any other purpose allowing a member of the committee  
14 to fully participate in a meeting of the committee. A meeting held  
15 by use of video conference call:

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

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

21               (3) must provide for the entire meeting two-way video  
22 communication between all committee members attending the meeting  
23 and if, at any time, the two-way video communication link with a  
24 member attending the meeting is disrupted, the meeting may not  
25 continue until that link is reestablished.

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

1           CHAPTER 418A. PANDEMIC EMERGENCY MANAGEMENT

2                   SUBCHAPTER A. GENERAL PROVISIONS

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

5           Sec. 418A.002. PURPOSES. The purposes of this chapter are  
6 to:

7                   (1) protect and preserve individual liberties  
8 guaranteed under the United States Constitution and the Texas  
9 Constitution;

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

13                   (3) prepare for prompt and efficient care and  
14 treatment of persons victimized or threatened by a pandemic  
15 disaster;

16                   (4) maintain employment levels for state residents to  
17 the extent possible;

18                   (5) provide a setting conducive to the rapid and  
19 orderly restoration and rehabilitation of persons and property  
20 affected by a pandemic disaster;

21                   (6) clarify the roles of the governor, state agencies,  
22 the judicial branch of state government, and the political  
23 subdivisions of this state in the prevention of, preparation for,  
24 response to, and recovery from a pandemic disaster;

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

27                   (8) authorize and coordinate activities relating to



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

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

7 (10) assist in the mitigation of pandemic disasters  
8 aggravated by inadequate planning for and regulation of public and  
9 private resources.

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

11 (1) "Division" means the Texas Division of Emergency  
12 Management.

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

20 (3) "Political subdivision" means a county or  
21 municipality.

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

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

24 (2) expand the authority granted to the governor under  
25 Chapter 418;

26 (3) limit the authority of the governor or the  
27 presiding officer of the governing body of a political subdivision

1 to apply for, administer, or spend a grant, gift, or payment in aid  
2 of pandemic disaster mitigation, preparedness, response, or  
3 recovery;

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

8 (5) interfere with dissemination of news or comment on  
9 public affairs, provided any communications facility or  
10 organization, including radio and television stations, wire  
11 services, Internet and cellular services, and newspapers, may be  
12 requested to transmit or print public service messages providing  
13 information or instructions in connection with a pandemic disaster  
14 or potential pandemic disaster;

15 (6) affect the jurisdiction or responsibilities of a  
16 law enforcement agency, fire department, or unit of the armed  
17 forces of the United States, or any of their personnel when on  
18 active duty, if state, local, or interjurisdictional emergency  
19 management plans rely on the agencies, departments, or units to  
20 perform duties related to pandemic disasters;

21 (7) limit, modify, or abridge the authority of the  
22 governor to exercise any other power vested in the governor under  
23 the constitution or laws of this state independent of or in  
24 conjunction with any provision of this chapter;

25 (8) authorize the seizure or confiscation of any  
26 firearm or ammunition from an individual who is lawfully carrying  
27 or possessing the firearm or ammunition;

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

5           (10) affect the level of scrutiny for judicial review  
6 of constitutional violations;

7           (11) delegate to any governmental official the  
8 authority to modify election procedures;

9           (12) authorize any governmental official to mandate  
10 that an individual obtain a vaccination;

11           (13) create any new legal duty for a negligence claim  
12 or a new cause of action; or

13           (14) authorize any governmental official to force a  
14 business to close or limit the operating capacity or use of a  
15 business.

16           Sec. 418A.0045. LIMITATIONS ON MEDICAL PROCEDURES. (a) In  
17 this section, "nonelective medical procedure" means a medical  
18 procedure, including a surgery, a physical exam, a diagnostic test,  
19 a screening, the performance of a laboratory test, and the  
20 collection of a specimen to perform a laboratory test, that if not  
21 performed within a reasonable time may, as determined in good faith  
22 by a patient's physician, result in:

23                   (1) the patient's loss of life; or

24                   (2) a deterioration, complication, or progression of  
25 the patient's current or potential medical condition or disorder,  
26 including a physical condition or mental disorder.

27           (b) The governor during a declared state of pandemic

1 disaster may not issue an executive order, proclamation, or  
2 regulation that limits or prohibits a nonelective medical  
3 procedure.

4 (c) The governor during a declared state of pandemic  
5 disaster may issue an executive order, proclamation, or regulation  
6 imposing a temporary limitation or prohibition on a medical  
7 procedure other than a nonelective medical procedure only if the  
8 limitation or prohibition is reasonably necessary to conserve  
9 resources for nonelective medical procedures or resources needed  
10 for disaster response. An executive order, proclamation, or  
11 regulation issued under this subsection may not continue for more  
12 than 15 days unless renewed by the governor.

13 (d) A person subject to an executive order, proclamation, or  
14 regulation issued under this section who in good faith acts or fails  
15 to act in accordance with that order, proclamation, or regulation  
16 is not civilly or criminally liable and is not subject to  
17 disciplinary action for that act or failure to act.

18 (e) The immunity provided by Subsection (d) is in addition  
19 to any other immunity or limitation of liability provided by law.

20 (f) Notwithstanding any other law, this section does not  
21 create a civil, criminal, or administrative cause of action or  
22 liability or create a standard of care, obligation, or duty that  
23 provides the basis for a cause of action for an act or omission  
24 under this section.

25 Sec. 418A.005. APPLICABILITY OF OTHER LAW. (a) The  
26 following provisions of Chapter 418 apply to a state of pandemic  
27 disaster declared under this chapter:

- 1           (1) Subchapter C-1;
- 2           (2) Subchapter D;
- 3           (3) Section 418.107;
- 4           (4) Section 418.1075;
- 5           (5) Section 418.108;
- 6           (6) Section 418.171;
- 7           (7) Section 418.1881;
- 8           (8) Section 418.1882;
- 9           (9) Section 418.191; and
- 10          (10) Section 418.193, as added by Chapter 70 (S.B.  
11 416), Acts of the 86th Legislature, Regular Session, 2019.

12           (b) Notwithstanding Subsection (a)(5), the provisions of  
13 Section 418.108 apply to a state of pandemic disaster declared  
14 under this chapter only to the extent the local declaration is  
15 issued for the purposes of applying for, administering, or spending  
16 a grant, gift, or payment in aid of pandemic disaster mitigation,  
17 preparedness, response, or recovery.

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

21           Sec. 418A.007. PROHIBITIONS. (a) The presiding officer of  
22 the governing body of a political subdivision may not issue an order  
23 during a declared state of pandemic disaster or local state of  
24 pandemic disaster that:

- 25           (1) requires businesses or industries to close;
- 26           (2) distinguishes between types of businesses or  
27 industries in limiting operation capacities; or

1           (3) restricts in-person visitation for residents of:

2                   (A) nursing facilities, assisted living  
3 facilities, and intermediate care facilities for individuals with  
4 an intellectual disability that are licensed under Subtitle B,  
5 Title 4, Health and Safety Code; and

6                   (B) state supported living centers, as defined by  
7 Section 531.002, Health and Safety Code.

8           (b) The governor or the presiding officer of the governing  
9 body of a political subdivision may not issue an order during a  
10 declared state of pandemic disaster or local state of pandemic  
11 disaster that requires a public or private golf course to close.

12           (c) The governor or the presiding officer of the governing  
13 body of a political subdivision may not issue an order during a  
14 declared state of pandemic disaster or local state of pandemic  
15 disaster that requires a state park to close.

16           Sec. 418A.0071. PROHIBITION ON CLOSURE OF PUBLIC BEACHES.  
17 During a declared state of pandemic disaster or local state of  
18 pandemic disaster, a governmental entity, including a political  
19 subdivision and state agency, may not issue an order, promulgate a  
20 rule, adopt or enforce a policy, or otherwise restrict access to or  
21 a means of accessing a public beach, as defined by Chapter 61,  
22 Natural Resources Code.

23           Sec. 418A.008. CIVIL LIABILITY DURING PANDEMIC DISASTER.  
24 (a) Section 418.006 applies during a declared state of pandemic  
25 disaster.

26           (b) A business or an entity operating during a pandemic  
27 disaster in this state is not liable for an injury caused by

1 exposing or potentially exposing an individual to a disease if on  
2 the date of the exposure or potential exposure:

3 (1) the business or entity is authorized to conduct  
4 business in this state;

5 (2) the business or entity made a reasonable effort to  
6 comply with applicable and controlling state and local laws, rules,  
7 ordinances, declarations, and proclamations related to the  
8 pandemic disaster; and

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

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

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

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

21 (f) The immunity provided by this section applies to nursing  
22 facilities licensed under Chapter 242, Health and Safety Code, only  
23 with respect to an act or omission that occurred before November 1,  
24 2020.

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 mandating the wearing of a face covering.

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

12 (1) a proclamation convening the legislature in  
13 special session that begins during that period to consider whether  
14 to modify or terminate the executive order, proclamation, or rule;  
15 or

16 (2) if the legislature is convened in regular or  
17 special session, a message to the legislature requesting the  
18 legislature's consideration of whether to modify or terminate the  
19 executive order, proclamation, or rule.

20 (c) The governor may not issue a new executive order,  
21 proclamation, or rule based on the same or a substantially similar  
22 finding as a prior executive order, proclamation, or rule that was  
23 terminated by the legislature under Subsection (b).

24 Sec. 418A.053. LIMITATIONS ON AUTHORITY OF GOVERNOR. (a)  
25 Except as expressly provided by this chapter, the governor may  
26 exercise the same authority the governor is granted under  
27 Subchapter B, Chapter 418, to address a declared state of pandemic



1 disaster.

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

4 (1) Section 418.014;

5 (2) Sections 418.016(b), (c), and (d);

6 (3) Section 418.019;

7 (4) Section 418.0195; and

8 (5) Section 418.023.

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

14 Sec. 418A.055. DECLARATION OF STATE OF PANDEMIC DISASTER.

15 (a) The governor by executive order or proclamation may declare a  
16 state of pandemic disaster if the governor determines that a state  
17 of pandemic disaster is occurring in this state or that the  
18 occurrence or threat of a pandemic disaster is imminent.

19 (b) Subject to Subsections (c), (c-1), and (d), a state of  
20 pandemic disaster continues until the governor:

21 (1) determines that:

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

23 or

24 (B) the pandemic disaster has been addressed to  
25 the extent that emergency conditions no longer exist; and

26 (2) terminates the state of pandemic disaster by  
27 executive order or proclamation.

1       (c) A state of pandemic disaster may not continue for more  
2 than 30 days unless renewed by the governor. If the legislature is  
3 convened in regular or special session, the legislature by law may  
4 at any time terminate a declared state of pandemic disaster. If the  
5 legislature is not convened in session, the Pandemic Disaster  
6 Legislative Oversight Committee established under Chapter 329 may  
7 at any time terminate:

8           (1) a state of pandemic disaster that is in effect for  
9 more than 30 days following the governor's renewal of the  
10 declaration; or

11           (2) provisions of proclamations, orders, or rules  
12 issued or adopted by the governor or of orders issued by a political  
13 subdivision for the pandemic disaster declaration described by  
14 Subdivision (1).

15       (c-1) A state of pandemic disaster renewed by the governor  
16 under Subsection (c) may not continue unless, on or before the 90th  
17 day after the date the state of pandemic disaster is initially  
18 declared, the governor:

19           (1) if the legislature is convened in regular or  
20 special session, issues a message to the legislature requesting the  
21 legislature's consideration and determination, not later than the  
22 30th day after the date the message is issued, of whether to modify  
23 or terminate the executive order or proclamation declaring the  
24 state of pandemic disaster; or

25           (2) if the legislature is not convened in regular or  
26 special session, issues a proclamation convening the legislature in  
27 a special session that begins not later than the 30th day after the

1 date the proclamation is issued for the legislature to consider  
2 whether to modify or terminate the executive order or proclamation  
3 declaring the state of pandemic disaster.

4 (c-2) The governor must provide notice of a proclamation  
5 convening the legislature under Subsection (c-1) not later than the  
6 60th day after the state or pandemic disaster is initially  
7 declared.

8 (d) The governor may not declare a new state of pandemic  
9 disaster based on the same or a substantially similar finding as a  
10 prior state of pandemic disaster that was terminated or not renewed  
11 by the legislature or to circumvent a meeting of the Pandemic  
12 Disaster Legislative Oversight Committee convened to review a state  
13 of pandemic disaster declaration.

14 (e) On termination of a declared state of pandemic disaster  
15 or a provision of a proclamation, order, or rule by the legislature  
16 or the Pandemic Disaster Legislative Oversight Committee under this  
17 section, the governor shall issue an executive order ending the  
18 declared state of pandemic disaster or rescinding those provisions.

19 (f) An executive proclamation or order issued under this  
20 section must:

21 (1) include:

22 (A) a description of the nature of the pandemic  
23 disaster;

24 (B) a designation of the areas affected or  
25 threatened; and

26 (C) a description of the conditions that caused  
27 the pandemic disaster or allowed the termination of the pandemic

1 disaster; and

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

4 (g) The governor shall:

5 (1) promptly disseminate a proclamation or order by  
6 any means intended to bring its contents to the attention of the  
7 public; and

8 (2) unless the circumstances related to the pandemic  
9 disaster prevent or impede the filing, promptly file the  
10 proclamation or order with:

11 (A) the division;

12 (B) the secretary of state; and

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

15 Sec. 418A.056. SALE AND TRANSPORTATION OF CERTAIN  
16 MATERIALS. The sale, dispensing, or transportation of firearms and  
17 ammunition may not be suspended or limited in response to a declared  
18 state of pandemic disaster.

19 SUBCHAPTER C. LOCAL AND INTERJURISDICTIONAL PANDEMIC EMERGENCY  
20 MANAGEMENT

21 Sec. 418A.101. PANDEMIC EMERGENCY MANAGEMENT DIRECTORS.

22 (a) The presiding officer of the governing body of a political  
23 subdivision is designated as the pandemic emergency management  
24 director for that political subdivision.

25 (b) A pandemic emergency management director serves as the  
26 governor's designated agent in the administration and supervision  
27 of duties under this chapter. A pandemic emergency management

1 director shall perform the duties prescribed by the emergency  
2 management plan and implement the state of pandemic proclamation  
3 and each executive order issued under this chapter.

4 (c) A pandemic emergency management director may designate  
5 a person to serve as pandemic emergency management coordinator.  
6 The pandemic emergency management coordinator shall serve as an  
7 assistant to the pandemic emergency management director for  
8 pandemic emergency management purposes.

9 (d) A person, other than a pandemic emergency management  
10 director, may not seize state or federal resources without prior  
11 authorization from the division or the state or federal agency  
12 responsible for those resources.

13 Sec. 418A.102. PREEMPTION. (a) Any local order or rule  
14 issued in response to a state or local state of pandemic disaster is  
15 superseded and void to the extent that it is inconsistent with  
16 proclamations, orders, or rules issued by the governor or the  
17 Department of State Health Services.

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

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

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

26 (2) "Tax year" has the meaning assigned by Section  
27 1.04, Tax Code.

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

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

5           (2) for which the governor issues a written  
6 determination finding that the presiding officer of the governing  
7 body of the political subdivision has taken an action described by  
8 Subdivision (1).

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

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

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

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

27           SUBCHAPTER D. MISCELLANEOUS PROVISIONS

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

2 Personnel surge capacity planning conducted under this chapter for  
3 declared states of pandemic disaster must include plans for  
4 providing personal protective equipment to physicians, other  
5 health care professionals, and pandemic disaster relief workers and  
6 volunteers.

7       Sec. 418A.152. EMERGENCY MANAGEMENT SYSTEM. The division,  
8 in collaboration with other appropriate persons selected by the  
9 division, shall:

10           (1) establish a statewide emergency management system  
11 to respond to a declared state of pandemic disaster;

12           (2) to the extent practicable include private wireless  
13 communication, Internet, and cable service providers in the system;  
14 and

15           (3) use the satellite communications equipment and  
16 mobile telephone towers of the participating providers under  
17 Subdivision (2) to assist in responding to a declared state of  
18 pandemic disaster.

19       SECTION 5. Section 418.004(1), Government Code, is amended  
20 to read as follows:

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

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

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

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

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

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

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

19 SECTION 7. Section 418.042(a), Government Code, is amended  
20 to read as follows:

21 (a) The division shall prepare and keep current a  
22 comprehensive state emergency management plan. The plan may  
23 include:

24 (1) provisions for prevention and minimization of  
25 injury and damage caused by disaster;

26 (2) provisions for prompt and effective response to  
27 disaster;



- 1           (3) provisions for emergency relief;
- 2           (4) provisions for energy emergencies;
- 3           (5) identification of areas particularly vulnerable  
4 to disasters;
- 5           (6) recommendations for zoning, building  
6 restrictions, and other land-use controls, safety measures for  
7 securing mobile homes or other nonpermanent or semipermanent  
8 structures, and other preventive and preparedness measures  
9 designed to eliminate or reduce disasters or their impact;
- 10          (7) provisions for assistance to local officials in  
11 designing local emergency management plans;
- 12          (8) authorization and procedures for the erection or  
13 other construction of temporary works designed to protect against  
14 or mitigate danger, damage, or loss from flood, fire, or other  
15 disaster;
- 16          (9) preparation and distribution to the appropriate  
17 state and local officials of state catalogs of federal, state, and  
18 private assistance programs;
- 19          (10) organization of manpower and channels of  
20 assistance;
- 21          (11) coordination of federal, state, and local  
22 emergency management activities;
- 23          (12) coordination of the state emergency management  
24 plan with the emergency management plans of the federal government;
- 25          (13) coordination of federal and state energy  
26 emergency plans;
- 27          (14) provisions for providing information to local

1 officials on activation of the Emergency Alert System established  
2 under 47 C.F.R. Part 11;

3 (15) a database of public facilities that may be used  
4 under Section 418.017 to shelter individuals during a disaster,  
5 including air-conditioned facilities for shelter during an extreme  
6 heat disaster and fortified structures for shelter during a wind  
7 disaster;

8 (16) provisions for quickly replenishing the food  
9 supplies of area food banks or food pantries following a disaster;  
10 [~~and~~]

11 (17) provisions for protecting public health; and

12 (18) other necessary matters relating to disasters.

13 SECTION 8. (a) Subchapter A, Chapter 241, Health and Safety  
14 Code, is amended by adding Section 241.012 to read as follows:

15 Sec. 241.012. IN-PERSON HOSPITAL VISITATION DURING PERIOD  
16 OF DISASTER. (a) In this section:

17 (1) "Hospital" means a hospital licensed under this  
18 chapter.

19 (2) "Qualifying official disaster order" means an  
20 order, proclamation, or other instrument issued by the governor,  
21 another official of this state, or the governing body or an official  
22 of a political subdivision of this state declaring a disaster that  
23 has infectious disease as the basis for the declared disaster.

24 (3) "Qualifying period of disaster" means the period  
25 of time the area in which a hospital is located is declared to be a  
26 disaster area by a qualifying official disaster order.

27 (4) "Religious counselor" means an individual acting

1 substantially in a pastoral or religious capacity to provide  
2 spiritual counsel to other individuals.

3 (b) A hospital may not during a qualifying period of  
4 disaster prohibit in-person visitation with a patient receiving  
5 care or treatment at the hospital unless federal law or a federal  
6 agency requires the hospital to prohibit in-person visitation  
7 during that period.

8 (c) Notwithstanding Subsection (b), a hospital may during a  
9 qualifying period of disaster:

10 (1) restrict the number of visitors a patient  
11 receiving care or treatment at the hospital may receive to not fewer  
12 than one;

13 (2) require a visitor to the hospital to:

14 (A) complete a health screening before entering  
15 the hospital; and

16 (B) wear personal protective equipment at all  
17 times while visiting a patient at the hospital; and

18 (3) deny entry to or remove from the hospital's  
19 premises a visitor who fails or refuses to:

20 (A) submit to or meet the requirements of a  
21 health screening administered by the hospital; or

22 (B) wear personal protective equipment that  
23 meets the hospital's infection control and safety requirements in  
24 the manner prescribed by the hospital.

25 (d) A health screening administered by a hospital under this  
26 section must be conducted in a manner that, at a minimum, complies  
27 with:

1           (1) hospital policy; and

2           (2) if applicable, guidance or directives issued by  
3 the commission, the Centers for Medicare and Medicaid Services, or  
4 another agency with regulatory authority over the hospital.

5           (e) Notwithstanding any other law, neither a hospital nor a  
6 physician providing health care services on the hospital's premises  
7 is subject to civil or criminal liability or an administrative  
8 penalty if a visitor contracts an infectious disease while on the  
9 hospital's premises during a qualifying period of disaster or, in  
10 connection with a visit to the hospital, spreads an infectious  
11 disease to any other individual, except where intentional  
12 misconduct or gross negligence by the hospital or the physician is  
13 shown. A physician who in good faith takes, or fails to take, an  
14 action under this section is not subject to civil or criminal  
15 liability or disciplinary action for the physician's action or  
16 failure to act under this section.

17           (f) This section may not be construed as requiring a  
18 hospital to:

19           (1) provide a specific type of personal protective  
20 equipment to a visitor to the hospital; or

21           (2) allow in-person visitation with a patient  
22 receiving care or treatment at the hospital if an attending  
23 physician determines that in-person visitation with that patient  
24 may lead to the transmission of an infectious agent that poses a  
25 serious community health risk.

26           (g) A determination made by an attending physician under  
27 Subsection (f)(2) is valid for not more than five days after the

1 date the determination is made unless renewed by an attending  
2 physician.

3 (h) If a visitor to a hospital is denied in-person  
4 visitation with a patient receiving care or treatment at a hospital  
5 because of a determination made by an attending physician under  
6 Subsection (f)(2), the hospital shall:

7 (1) provide each day a written or oral update of the  
8 patient's condition to the visitor if the visitor:

9 (A) is authorized by the patient to receive  
10 relevant health information regarding the patient;

11 (B) has authority to receive the patient's health  
12 information under an advance directive or medical power of  
13 attorney; or

14 (C) is otherwise the patient's surrogate  
15 decision-maker regarding the patient's health care needs under  
16 hospital policy and other applicable law; and

17 (2) notify the person who receives the daily update  
18 required under Subdivision (1) of the estimated date and time at  
19 which the patient will be discharged from the hospital.

20 (i) Notwithstanding any other provision of this section, a  
21 hospital may not prohibit in-person visitation by a religious  
22 counselor with a patient who is receiving care or treatment at the  
23 hospital and who is seriously ill or dying for a reason other than  
24 the religious counselor's failure to comply with a requirement  
25 described by Subsection (c)(2).

26 (j) In the event of a conflict between this section and any  
27 provision of a qualifying official disaster order, this section

1 prevails.

2 (b) Notwithstanding any other provision of this Act, this  
3 section takes effect September 1, 2021.

4 SECTION 9. Section 418A.0045, Government Code, as added by  
5 this Act, applies only to an order, proclamation, or regulation  
6 issued on or after the effective date of this Act.

7 SECTION 10. Section 418A.008, Government Code, as added by  
8 this Act, applies only to a cause of action that accrued on or after  
9 March 13, 2020. A cause of action that accrued before March 13,  
10 2020, is governed by the law applicable to the cause of action  
11 immediately before the effective date of this Act, and that law is  
12 continued in effect for that purpose.

13 SECTION 11. Notwithstanding any other law, if this state  
14 receives from the federal government an amount of \$1 billion or more  
15 related to disaster or pandemic relief response after the governor  
16 has signed and the comptroller of public accounts has certified  
17 S.B. No. 1, 87th Legislature, Regular Session, 2021 (the General  
18 Appropriations Act), or similar law, the expenditure of any of that  
19 money appropriated for the state fiscal biennium ending August 31,  
20 2021, or for the state fiscal biennium beginning September 1, 2021,  
21 is contingent on the approval of that expenditure by the House  
22 Appropriations Committee and Senate Finance Committee in joint or  
23 separate hearings not later than 120 days after the enactment of the  
24 federal legislation authorizing the disbursement of the money.  
25 Federal money described by this section may not be spent until the  
26 secretary of the senate and the chief clerk of the house of  
27 representatives certify to the comptroller of public accounts that

1 public hearings were held by those committees on the subject of the  
2 approval.

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

**ADOPTED**

MAY 25 2021

*Lacey Spaw*  
Secretary of the Senate

H.B. No. 3

By: *Sam Bredwell*

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

By: *Sam Bredwell*

C.S. H.B. No. 3

A BILL TO BE ENTITLED

AN ACT

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relating to the authority of the legislature, governor, and certain political subdivisions with respect to disasters, including pandemic 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;



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

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

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

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

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

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

25           (1) "Disaster" means the occurrence or imminent threat  
26 of widespread or severe damage, injury, or loss of life or property  
27 resulting from any natural or man-made cause not related to the use

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

8 SECTION 3. Subchapter B, Chapter 418, Government Code, is  
9 amended by adding Section 418.0125 to read as follows:

10 Sec. 418.0125. CERTAIN POWER RELATED TO BUSINESSES RESERVED  
11 TO LEGISLATURE. (a) Notwithstanding any other law, during a  
12 declared state of disaster, only the legislature has the authority  
13 to restrict or impair the operation or occupancy of businesses in  
14 this state by category or region to appropriately respond to the  
15 disaster. The legislature may only exercise the authority granted  
16 by this subsection in a county after consulting with the county  
17 judge of each county impacted by the disaster.

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

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

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

1 (1) finds that:

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

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

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

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

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

17 (1) exists in at least two-fifths of the counties in  
18 this state; or

19 (2) affects at least half of the population of this  
20 state, according to the most recent federal decennial census.

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

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

25 (d) Each state agency impacted by the suspension of a  
26 statute or rule on the list compiled under Subsection (a) shall  
27 publish on the agency's Internet website a list of those statutes

1 and rules. The agency's list must be:

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

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

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

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

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

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

20 (1) a provision of this chapter or Chapter 433; or

21 (2) a law or rule related to the application of Chapter  
22 325 (Texas Sunset Act), the suspension of which results in the  
23 continuation of a state agency beyond the date prescribed in  
24 statute for the abolishment of the agency.

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

1 state of disaster.

2 (c) If the governor finds that a suspension authorized by  
3 Subsection (b) should be continued for more than 30 days and the  
4 legislature is not convened in regular or special session, the  
5 governor by proclamation shall convene the legislature in special  
6 session to respond to a state of 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, weapons, and ammunition, except as provided by  
4 Section 433.0045; and

5 (7) control of the storage, use, and transportation of  
6 explosives or flammable materials considered dangerous to public  
7 safety.

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 433.003, Government Code, is amended by  
24 amending Subsection (a) and adding Subsection (c) to read as  
25 follows:

26 (a) Except as provided by Subsections [~~Subsection~~] (b) and  
27 (c), a directive expires 72 hours after the time of proclamation of

1 the state of emergency for which it was issued.

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

7 (1) exists in at least two-fifths of the counties in  
8 this state; or

9 (2) affects at least half of the population of this  
10 state, according to the most recent federal decennial census.

11 SECTION 13. Section 418.019, Government Code, is repealed.

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

15 SECTION 15. This Act takes effect September 1, 2021.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 27, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3** by Burrows (Relating to the authority of the legislature, governor, and certain political subdivisions with respect to disasters, including pandemic disasters, and emergencies.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
---

It is assumed that the costs associated with the bill's provisions relating to the authority of the Legislature, Governor, and certain political subdivisions with respect to disasters, including pandemic disasters, and emergencies, could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 300 Trusteed Programs - Gov, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 313 Department of Information Resources, 327 Employees Retirement System, 452 Dept of License & Reg, 455 Railroad Commission, 473 Public Utility Commission of Texas, 529 Hlth & Human Svcs Comm, 537 State Health Services, 575 TX Division of Emergency Management, 582 Commission on Environmental Quality, 601 Department of Transportation, 608 Department of Motor Vehicles, 701 Texas Education Agency, 710 Texas A&M Univ System Admin, 720 UT Sys Admin, 783 Univ of Houston Sys Admin

**LBB Staff:** JMc, SD, SMAT, JSM, MC, CMA, AF

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 22, 2021**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3** by Burrows (relating to the authority of the legislature, governor, and certain political subdivisions with respect to disasters, including pandemic disasters, and emergencies.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

It is assumed that the costs associated with the bill's provisions relating to the authority of the Legislature, Governor, and certain political subdivisions with respect to disasters, including pandemic disasters, and emergencies, could be absorbed using existing resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 300 Trusteed Programs - Gov, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 313 Department of Information Resources, 327 Employees Retirement System, 452 Dept of License & Reg, 455 Railroad Commission, 473 Public Utility Commission of Texas, 529 Hlth & Human Svcs Comm, 537 State Health Services, 575 TX Division of Emergency Management, 582 Commission on Environmental Quality, 601 Department of Transportation, 608 Department of Motor Vehicles, 701 Texas Education Agency, 710 Texas A&M Univ System Admin, 720 UT Sys Admin, 783 Univ of Houston Sys Admin

**LBB Staff:** JMc, SMAT, JSM, MC, CMA, AF

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 19, 2021**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3** by Burrows (Relating to state and local government responses to a pandemic disaster, including the establishment of the Pandemic Disaster Legislative Oversight Committee, and to in-person hospital visitation during a disaster.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3, As Engrossed : a negative impact of (\$22,491,686) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	(\$12,333,171)
2023	(\$10,158,515)
2024	(\$10,158,515)
2025	(\$10,201,274)
2026	(\$10,158,515)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<i>Probable (Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$12,333,171)	16.8
2023	(\$10,158,515)	16.8
2024	(\$10,158,515)	16.8
2025	(\$10,201,274)	16.8
2026	(\$10,158,515)	16.8

**Fiscal Analysis**

Section 418A.151 of the bill would require the Texas Division of Emergency Management (TDEM) to support the direction, oversight, and management of the development of regional plans for surge capacity during pandemic disasters, including plans for personal protective equipment.

Section 418A.152 of the bill would require TDEM to implement a statewide disaster alert system.

**Methodology**

The provision of the bill relating to planning would affect operations at TDEM in two ways, impacting the agency's Preparedness and Response Divisions. First, Section 418A.151 of the bill would task TDEM with direction, oversight, and management of the development of regional plans for surge capacity during pandemic disasters, including plans for personal protective equipment. Per Section 418.044(a) of the Government Code, TDEM must "employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions and emergency management agencies." In addition to supporting plan development and administration, the agency's Response Division would require additional logistics staff and resources to support long-term deployment relating to pandemic emergency management. TDEM estimates that \$2,518,849 in General Revenue for the biennium and 9.0 additional FTEs would be necessary to undertake its responsibilities under the bill. The FTE estimate includes 5.0 planner II's (estimated salary of \$291,204 per year); 1.0 Unit Chief (\$99,500 per year); 1.0 Supervisor (\$75,000 per year); 1.0 Planner III with specific expertise in public health (\$65,000 per year) and a Program Specialist V (\$63,616 per year). Salaries included in this estimate total \$594,320 per year as well as \$8,640 in personnel costs per year and \$196,083 in benefits per year. Additionally, the estimate includes one-time costs of \$88,904 in fiscal year 2022 relating to standing up the new unit for pandemic response and annual operating costs of \$74,913. The estimate also includes assumed costs for supplies, fuel, travel, office space (including rent and utilities), and equipment, these annual costs total \$312,872. Finally, the estimate includes estimated capital costs of \$42,788 in FY 2022 and \$30,000 in FY 2025 for assumed space modification costs.

To implement the provision that would require TDEM to implement a state-wide disaster alert system, the agency would require an additional 7.8 FTEs and additional costs of \$19,986,338 for the biennium. This includes an estimated \$10 million for the procurement of the system, based on market assumptions provided by the agency. This cost decreases to \$8 million per year in subsequent years. The additional 7.8 FTEs would include 5.0 program specialist (estimated salaries total \$239,632), 1.0 Program Specialist IV (\$75,000 per year), 0.8 Program Specialist V (estimated salary of \$50,893), and 1.0 Unit Chief (\$99,500 per year). In addition to the total \$465,025 in salaries and wages, the estimate assumes \$151,226 in benefits per year and \$7,488 in personnel costs per year. Additionally, the estimate includes \$390,912 in operating costs, including travel, fuel, rent and utilities, and startup costs associated with new staff and establishing a new program. These operating costs decrease to \$347,948 in fiscal years 2023, 2024 and 2026, increasing to \$360,707 in fiscal year 2025 for anticipated technology maintenance costs.

### **Technology**

This estimate includes costs for the procurement and maintenance of laptops and other technology necessary for the agency to fulfil its responsibilities under the legislation.

### **Local Government Impact**

El Paso County is unable to quantify the fiscal impact but estimate that local governments might not receive funding in a timely matter, if at all, resulting in a potentially significant fiscal impact to the county. The fiscal impact to other counties cannot be estimated at this time.

According to the Texas Municipal League, the bill's provisions would limit the property tax rate of a city or county if the governor's office determines that the city or county took action during a pandemic that had the effect of closing a private business. If that occurs, it would have a significant negative impact on those particular cities.

**Source Agencies:** 300 Trusteed Programs - Gov, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 313 Department of Information Resources, 327 Employees Retirement System, 452 Dept of License & Reg, 455 Railroad Commission, 473 Public Utility Commission of Texas, 529 Hlth & Human Svcs Comm, 537 State Health Services, 575 TX Division of Emergency Management, 582 Commission on Environmental Quality, 601 Department of Transportation, 608 Department of Motor Vehicles, 701 Texas Education Agency, 710 Texas A&M Univ System Admin, 720 UT Sys Admin, 783 Univ of Houston Sys Admin

**LBB Staff:** JMc, SMAT, JSM, MC, CMA, AF

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**  
**Revision 1**

**May 5, 2021**

**TO:** Honorable Chris Paddie, Chair, House Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3** by Burrows (relating to state and local government responses to a pandemic disaster, including the establishment of the Pandemic Disaster Legislative Oversight Committee.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3, Committee Report 1st House, Substituted : a negative impact of (\$2,518,849) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2022	(\$1,332,021)
2023	(\$1,186,828)
2024	(\$1,186,828)
2025	(\$1,216,828)
2026	(\$1,186,828)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable (Cost) from General Revenue Fund 1</b>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$1,332,021)	9.0
2023	(\$1,186,828)	9.0
2024	(\$1,186,828)	9.0
2025	(\$1,216,828)	9.0
2026	(\$1,186,828)	9.0

**Fiscal Analysis**

Section 418A.151 of the bill would require the Texas Division of Emergency Management (TDEM) to support the direction, oversight, and management of the development of regional plans for surge capacity during pandemic disasters, including plans for personal protective equipment.

**Methodology**

The bill would affect operations at TDEM in two ways, impacting the agency's Preparedness and Response Divisions. First, Section 418A.151 of the bill would task TDEM with direction, oversight, and management of the development of regional plans for surge capacity during pandemic disasters, including plans for personal protective equipment. Per Section 418.044(a) of the Government Code, TDEM must "employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions and emergency management agencies." In addition to supporting plan development and administration, the agency's Response Division would require additional logistics staff and resources to support long-term deployment relating to pandemic emergency management. TDEM estimates that \$2,518,849 in General Revenue for the biennium and 9.0 additional FTEs would be necessary to undertake its responsibilities under the bill.

### **Technology**

This estimate includes costs for the procurement and maintenance of laptops and other technology necessary for the agency to fulfil its responsibilities under the legislation.

### **Local Government Impact**

The fiscal implications of the bill concerning guidance on the implementation of local tax rates during a pandemic disaster cannot be determined at this time.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 327 Employees Retirement System, 452 Dept of License & Reg, 455 Railroad Commission, 473 Public Utility Commission of Texas, 529 Hlth & Human Svcs Comm, 537 State Health Services, 575 TX Division of Emergency Management, 582 Commission on Environmental Quality, 601 Department of Transportation, 608 Department of Motor Vehicles, 701 Texas Education Agency

**LBB Staff:** JMc, SMAT, JSM, MC, CMA, AF

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 4, 2021**

**TO:** Honorable Chris Paddie, Chair, House Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3** by Burrows (relating to state and local government responses to a pandemic disaster, including the establishment of the Pandemic Disaster Legislative Oversight Committee.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

It is assumed that the costs associated with the bill's provisions relating to Pandemic Emergency Management and the establishment of the Pandemic Disaster Legislative Oversight Committee could be absorbed using existing resources.

**Local Government Impact**

The fiscal implications of the bill, particularly provisions prescribing specific guidance on local tax rates, cannot be determined at this time.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 327 Employees Retirement System, 452 Dept of License & Reg, 455 Railroad Commission, 473 Public Utility Commission of Texas, 529 Hlth & Human Svcs Comm, 537 State Health Services, 575 TX Division of Emergency Management, 582 Commission on Environmental Quality, 601 Department of Transportation, 608 Department of Motor Vehicles, 701 Texas Education Agency

**LBB Staff:** JMc, SMAT, JSM, MC



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**March 10, 2021**

**TO:** Honorable Chris Paddie, Chair, House Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3** by Burrows (Relating to state and local government responses to a pandemic disaster; creating a criminal offense.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3, As Introduced : a negative impact of (\$2,987,474) through the biennium ending August 31, 2023.

The information in the below tables was provided by the Texas Division of Emergency Management (TDEM) and the Texas Education Agency (TEA).

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2022	(\$1,568,477)
2023	(\$1,418,997)
2024	(\$1,413,563)
2025	(\$1,443,563)
2026	(\$1,413,563)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable (Cost) from General Revenue Fund 1</b>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$1,568,477)	11.0
2023	(\$1,418,997)	11.0
2024	(\$1,413,563)	11.0
2025	(\$1,443,563)	11.0
2026	(\$1,413,563)	11.0

**Fiscal Analysis**

Section 418A.154 of the bill would require TDEM to support the direction, oversight, and management of the development of regional plans for surge capacity during pandemic disasters, including plans for personal protective equipment, lodging, and meals, with each of the 24 Councils of Government (COG), regional planning commissions or other designated authorities.

The bill would create new authorities for the Commissioner of Education to ensure that if a district or charter school does not offer full-time in-person education for a student during the pandemic disaster, the student may attend an instructional program provided off-campus by an entity other than a school district or open-

enrollment charter school. Section 418A.157 of the bill would authorize the commissioner to approve instructional programs provided off-campus by an entity other than a school district or open-enrollment charter school in which participation by a student would be counted toward average daily attendance. Assuming that the pandemic would continue, and TEA would need to set up rules and application processes for approved entities.

## **Methodology**

The bill would affect operations at TDEM in two ways, impacting the agency's Preparedness and Response Divisions. First, Section 418A.154 of the bill would task TDEM with direction, oversight, and management of the development of regional plans for surge capacity during pandemic disasters, including plans for personal protective equipment, lodging, and meals, with each of the 24 Councils of Government (COG), regional planning commissions or other designated authorities. Per Section 418.044(a) of the Government Code, TDEM must "employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions and emergency management agencies." In addition to supporting plan development and administration, the agency's Response Division would require additional logistics staff and resources to support long-term deployment relating to pandemic emergency management. TDEM estimates that \$2,518,849 in General Revenue and 9.0 additional FTEs would be necessary to undertake its responsibilities under the bill.

Under the assumption that the current pandemic continues into the 2022-23 biennium, TEA estimates that \$468,715 and 2.0 FTEs would be required in the 2022-23 biennium to implement the provisions of the bill. The majority of these costs are associated with the following activities: developing and administering a process for determining entity eligibility for off-campus instructional programs, monitoring ongoing eligibility, monitoring program enrollment, and supporting resolution of financial issues between districts, charter schools, and approved off-campus programs. Additionally, based on an assumption provided by the agency that the pandemic continues into the 2022-23 biennium, no significant impact to average daily attendance is anticipated, and as a result, there would be no significant fiscal impact to the Foundation School Program.

Other agencies note that while impacts are possible, they are not able to be calculated at this time. Specifically, the Employee Retirement System (ERS) notes that the bill allows certain ERS members to add service credit for retirement. This credit could have a negative impact on the ERS, LECOS, and JRS plans, but that impact cannot be determined. The bill makes certain members of local agencies and volunteers eligible for state health insurance benefits, but ERS is unable to determine how many individuals would be impacted by this provision, and therefore the fiscal impact of this provision cannot be determined.

## **Technology**

TEA notes that to implement its authorities under the bill, it would need to develop a new application and reports. TEA estimates that the cost estimate to develop and implement the requirements in the new application is \$1,811.53 FY 2022 and \$5,434.58 in FY 2023 for initial development effort for a total cost of \$7,246.11.

## **Local Government Impact**

An offense under the provisions of the bill would be an offense punishable by a fine of not more than \$1,000. Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal impact.

Based on information provided by TEA, school districts and charter schools could incur additional costs related to tracking attendance of students attending an off-campus instructional program.

Cameron County does not anticipate a fiscal impact to the county. The City of Abilene does not anticipate a fiscal impact to the city. The City of Dallas anticipates an impact, but the extent of impact cannot be determined. The City of El Paso anticipates a revenue loss of \$5.8 million in FY 2022, \$5.93 in FY 2023, \$6.05 million in FY 2024, \$6.17 million in FY 2025, and \$6.29 million in 2025 due to adopting the proposed effective tax rate in Section 418A.105 of the bill. The amount is compounded annually.

**Source Agencies:** 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 327 Employees Retirement System, 452 Dept of License & Reg, 455 Railroad Commission, 473 Public Utility Commission of Texas, 529 Hlth & Human Svcs Comm, 537 State Health Services, 575 TX Division of Emergency Management, 582 Commission on Environmental Quality, 601 Department of Transportation, 608 Department of Motor Vehicles, 701 Texas Education Agency

**LBB Staff:** JMc, SMat, JSm, MC, AF