

1-1 By: Birdwell, et al. S.B. No. 1025
 1-2 (In the Senate - Filed March 4, 2021; March 18, 2021, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 April 6, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 6, 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. 1025 By: Birdwell

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

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

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

1-24 SECTION 1. Section 418.002, Government Code, is amended to
 1-25 read as follows:

1-26 Sec. 418.002. PURPOSES. The purposes of this chapter are
 1-27 to:

1-28 (1) reduce vulnerability of people and communities of
 1-29 this state to damage, injury, and loss of life and property
 1-30 resulting from natural or man-made disasters [~~catastrophes, riots,~~
 1-31 ~~or hostile military or paramilitary action~~];

1-32 (2) prepare for prompt and efficient rescue, care, and
 1-33 treatment of persons victimized or threatened by disaster;

1-34 (3) provide a setting conducive to the rapid and
 1-35 orderly restoration and rehabilitation of persons and property
 1-36 affected by disasters;

1-37 (4) clarify and strengthen the roles of the governor,
 1-38 state agencies, the judicial branch of state government, and local
 1-39 governments in prevention of, preparation for, response to, and
 1-40 recovery from disasters;

1-41 (5) authorize and provide for cooperation in disaster
 1-42 mitigation, preparedness, response, and recovery;

1-43 (6) authorize and provide for coordination of
 1-44 activities relating to disaster mitigation, preparedness,
 1-45 response, and recovery by agencies and officers of this state, and
 1-46 similar state-local, interstate, federal-state, and foreign
 1-47 activities in which the state and its political subdivisions may
 1-48 participate;

1-49 (7) provide an emergency management system embodying
 1-50 all aspects of predisaster preparedness and postdisaster response;

1-51 (8) assist in mitigation of disasters caused or
 1-52 aggravated by inadequate planning for and regulation of public and
 1-53 private facilities and land use;

1-54 (9) encourage state agencies, local governments,
 1-55 nongovernmental organizations, private entities, and individuals
 1-56 to adopt the goals of the strategic plan of the Federal Emergency
 1-57 Management Agency for preparing for, responding to, and recovering
 1-58 from a disaster that emphasize cooperation among federal agencies,
 1-59 state agencies, local governments, nongovernmental organizations,
 1-60 private entities, and individuals in each activity or project

2-1 undertaken to ensure that this state is prepared to effectively
2-2 respond to and recover from a disaster; and

2-3 (10) provide the authority and mechanism to respond to
2-4 an energy emergency.

2-5 SECTION 2. Section 418.004(1), Government Code, is amended
2-6 to read as follows:

2-7 (1) "Disaster" means the occurrence or imminent threat
2-8 of widespread or severe damage, injury, or loss of life or property
2-9 resulting from any natural or man-made cause not related to the use
2-10 of force or violence such as civil unrest, riots, or insurrection.
2-11 The term includes~~[, including]~~ fire, flood, earthquake, wind,
2-12 storm, wave action, oil spill or other water contamination,
2-13 volcanic activity, epidemic, air contamination, blight, drought,
2-14 infestation, explosion, ~~[riot, hostile military or paramilitary~~
2-15 action, extreme heat, cybersecurity event, other public calamity
2-16 requiring emergency action, or energy emergency.

2-17 SECTION 3. Subchapter B, Chapter 418, Government Code, is
2-18 amended by adding Section 418.0125 to read as follows:

2-19 Sec. 418.0125. CERTAIN POWER RELATED TO BUSINESSES RESERVED
2-20 TO LEGISLATURE. (a) Notwithstanding any other law, during a
2-21 declared state of disaster, only the legislature has the authority
2-22 to restrict or impair the operation or occupancy of businesses in
2-23 this state by category or region to appropriately respond to the
2-24 disaster.

2-25 (b) The governor by proclamation shall convene the
2-26 legislature in special session to respond to a declared state of
2-27 disaster if the governor finds that the authority of the
2-28 legislature under Subsection (a) should be exercised and the
2-29 legislature is not convened in regular or special session.

2-30 SECTION 4. Section 418.014, Government Code, is amended by
2-31 amending Subsections (b) and (c) and adding Subsection (c-1) to
2-32 read as follows:

2-33 (b) Except as provided by Subsection (c) or (c-1), the state
2-34 of disaster continues until the governor:

- 2-35 (1) finds that:
2-36 (A) the threat or danger has passed; or
2-37 (B) the disaster has been dealt with to the
2-38 extent that emergency conditions no longer exist; and
2-39 (2) terminates the state of disaster by executive
2-40 order.

2-41 (c) A state of disaster may not continue for more than 30
2-42 days unless renewed by the governor, subject to Subsection (c-1).
2-43 The legislature by law may terminate a state of disaster at any
2-44 time. On termination by the legislature, the governor shall issue
2-45 an executive order ending the state of disaster.

2-46 (c-1) If the governor finds that a state of disaster
2-47 described by Section 8(c), Article IV, Texas Constitution, requires
2-48 renewal and the legislature is not convened in regular or special
2-49 session, the governor by proclamation shall convene the legislature
2-50 in special session to renew, extend, or otherwise respond to the
2-51 state of disaster. The governor may not declare a new state of
2-52 disaster based on the same or a substantially similar finding as a
2-53 prior state of disaster subject to this subsection that was
2-54 terminated or not renewed by the legislature.

2-55 SECTION 5. Section 418.0155, Government Code, is amended by
2-56 adding Subsections (c) and (d) to read as follows:

2-57 (c) The governor's office shall publish the list compiled
2-58 under Subsection (a) on the office's Internet website.

2-59 (d) Each state agency impacted by the suspension of a
2-60 statute or rule on the list compiled under Subsection (a) shall
2-61 publish on the agency's Internet website a list of those statutes
2-62 and rules. The agency's list must be:

2-63 (1) posted or updated within 24 hours of any
2-64 suspension; and

2-65 (2) accessible by selecting or viewing not more than
2-66 two Internet web pages after accessing the agency's Internet home
2-67 page.

2-68 SECTION 6. Section 418.016(a), Government Code, is amended
2-69 to read as follows:

3-1 (a) Subject to Sections 418.0125 and 418.0165, the [The]
3-2 governor may suspend the provisions of any regulatory statute
3-3 prescribing the procedures for conduct of state business or the
3-4 orders or rules of a state agency if strict compliance with the
3-5 provisions, orders, or rules would in any way prevent, hinder, or
3-6 delay necessary action in coping with a disaster.

3-7 SECTION 7. Subchapter B, Chapter 418, Government Code, is
3-8 amended by adding Section 418.0165 to read as follows:

3-9 Sec. 418.0165. LIMITATION ON POWER TO SUSPEND LAWS OR
3-10 RULES. (a) Notwithstanding any provision of this chapter, the
3-11 governor may not suspend:

3-12 (1) a provision of this chapter or Chapter 433; or

3-13 (2) a law or rule related to the application of Chapter
3-14 325 (Texas Sunset Act), the suspension of which results in the
3-15 continuation of a state agency beyond the date prescribed in
3-16 statute for the abolishment of the agency.

3-17 (b) The governor may suspend a provision of the Code of
3-18 Criminal Procedure, Election Code, or Penal Code only during the
3-19 first 30 days of a declared state of disaster.

3-20 (c) If the governor finds that a suspension authorized by
3-21 Subsection (b) should be continued for more than 30 days and the
3-22 legislature is not convened in regular or special session, the
3-23 governor by proclamation shall convene the legislature in special
3-24 session to respond to a state of disaster.

3-25 SECTION 8. Subchapter B, Chapter 418, Government Code, is
3-26 amended by adding Section 418.027 to read as follows:

3-27 Sec. 418.027. PREEMPTION OF DECLARATION OF LOCAL DISASTER.
3-28 A declaration of local disaster issued under Subchapter E may not
3-29 conflict with, or expand or limit the scope of, a declaration of
3-30 disaster issued under this subchapter unless expressly authorized
3-31 by a proclamation or executive order issued by the governor under
3-32 this chapter.

3-33 SECTION 9. Section 433.001, Government Code, is amended to
3-34 read as follows:

3-35 Sec. 433.001. PROCLAMATION OF STATE OF EMERGENCY. On
3-36 application of the chief executive officer or governing body of a
3-37 county or municipality during an emergency, the governor may
3-38 proclaim a state of emergency and designate the area involved. For
3-39 the purposes of this section an emergency exists in the following
3-40 situations:

3-41 (1) a riot or unlawful assembly by three or more
3-42 persons acting together by use of force or violence;

3-43 (2) if a clear and present danger of the use of force
3-44 or violence exists; or

3-45 (3) a natural or man-made disaster related to the use
3-46 of force or violence such as civil unrest or insurrection.

3-47 SECTION 10. Section 433.002, Government Code, is amended by
3-48 amending Subsection (b) and adding Subsection (d) to read as
3-49 follows:

3-50 (b) Subject to Section 433.0025, the [The] directive may
3-51 provide for:

3-52 (1) control of public and private transportation in
3-53 the affected area;

3-54 (2) designation of specific zones in the affected area
3-55 in which, if necessary, the use and occupancy of buildings and
3-56 vehicles may be controlled;

3-57 (3) control of the movement of persons;

3-58 (4) control of places of amusement or assembly;

3-59 (5) establishment of curfews;

3-60 (6) control of the sale, transportation, and use of
3-61 alcoholic beverages, weapons, and ammunition, except as provided by
3-62 Section 433.0045; and

3-63 (7) control of the storage, use, and transportation of
3-64 explosives or flammable materials considered dangerous to public
3-65 safety.

3-66 (d) A directive issued under this section applies only
3-67 within the jurisdictional boundaries of the county or municipality
3-68 for which an application was made under Section 433.001.

3-69 SECTION 11. Chapter 433, Government Code, is amended by

4-1 adding Section 433.0025 to read as follows:

4-2 Sec. 433.0025. CERTAIN POWER RELATED TO BUSINESSES RESERVED
4-3 TO LEGISLATURE. (a) During a state of emergency, only the
4-4 legislature has the authority to restrict or impair the operation
4-5 or occupancy of businesses in this state by category or region to
4-6 appropriately respond to the emergency.

4-7 (b) The governor by proclamation shall convene the
4-8 legislature in special session to respond to a state of emergency if
4-9 the governor finds that the authority of the legislature under
4-10 Subsection (a) should be exercised and the legislature is not
4-11 convened in regular or special session.

4-12 SECTION 12. Section 418.019, Government Code, is repealed.

4-13 SECTION 13. The changes in law made by this Act apply only
4-14 to an order, proclamation, regulation, or directive issued on or
4-15 after the effective date of this Act.

4-16 SECTION 14. This Act takes effect December 1, 2021, but only
4-17 if the constitutional amendment proposed by S.J.R. No. 45, 87th
4-18 Legislature, Regular Session, 2021, or a similar constitutional
4-19 amendment proposed at that session regarding the powers of the
4-20 governor and the legislature following certain disaster or
4-21 emergency declarations is approved by the voters. If such an
4-22 amendment is not approved by the voters, this Act has no effect.

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