

1-1 By: Birdwell S.B. No. 871
1-2 (In the Senate - Filed January 22, 2025; February 13, 2025,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 7, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 7, 2025,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

1-8		Yea	Nay	Absent	PNV
1-9	Hughes	X			
1-10	Paxton	X			
1-11	Bettencourt	X			
1-12	Birdwell	X			
1-13	Hall	X			
1-14	Hinojosa of Nueces	X			
1-15	Middleton	X			
1-16	Parker	X			
1-17	Perry			X	
1-18	Schwertner			X	
1-19	Zaffirini	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 871 By: Birdwell

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to the authority of the legislature, governor, and certain
1-24 political subdivisions with respect to disasters and emergencies.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 418.002, Government Code, is amended to
1-27 read as follows:

1-28 Sec. 418.002. PURPOSES. The purposes of this chapter are
1-29 to:

1-30 (1) reduce vulnerability of people and communities of
1-31 this state to damage, injury, and loss of life and property
1-32 resulting from natural or man-made disasters ~~[catastrophes, riots,~~
1-33 ~~or hostile military or paramilitary action]~~;

1-34 (2) prepare for prompt and efficient rescue, care, and
1-35 treatment of persons victimized or threatened by disaster;

1-36 (3) provide a setting conducive to the rapid and
1-37 orderly restoration and rehabilitation of persons and property
1-38 affected by disasters;

1-39 (4) clarify and strengthen the roles of the governor,
1-40 state agencies, the judicial branch of state government, and local
1-41 governments in prevention of, preparation for, response to, and
1-42 recovery from disasters;

1-43 (5) authorize and provide for cooperation in disaster
1-44 mitigation, preparedness, response, and recovery;

1-45 (6) authorize and provide for coordination of
1-46 activities relating to disaster mitigation, preparedness,
1-47 response, and recovery by agencies and officers of this state, and
1-48 similar state-local, interstate, federal-state, and foreign
1-49 activities in which the state and its political subdivisions may
1-50 participate;

1-51 (7) provide an emergency management system embodying
1-52 all aspects of predisaster preparedness and postdisaster response;

1-53 (8) assist in mitigation of disasters caused or
1-54 aggravated by inadequate planning for and regulation of public and
1-55 private facilities and land use;

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

state agencies, local governments, nongovernmental organizations, private entities, and individuals in each activity or project undertaken to ensure that this state is prepared to effectively respond to and recover from a disaster; and

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

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

(1) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause unrelated to the use of force or violence such as civil unrest, riots, or insurrection. The term includes~~[including]~~ fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, ~~[riot, hostile military or paramilitary action,]~~ extreme heat, cybersecurity event, other public calamity requiring emergency action, or energy emergency.

SECTION 3. Subchapter B, Chapter 418, Government Code, is amended by adding Section 418.0126 to read as follows:

Sec. 418.0126. CERTAIN POWER RELATED TO BUSINESSES RESERVED TO LEGISLATURE. (a) Notwithstanding any other law, during a declared state of disaster, only the legislature has the authority to restrict or impair the operation or occupancy of businesses in this state by category or region to appropriately respond to the disaster. The legislature may only exercise the authority granted by this subsection in a county after consulting with the county judge of each county impacted by the disaster.

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

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

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

(1) finds that:

(A) the threat or danger has passed; or

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

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

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

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

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

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

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

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

(2) accessible by selecting or viewing not more than

two Internet web pages after accessing the agency's Internet home page.

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

(a) Subject to Sections 418.0126 and 418.0165, the [The] governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

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

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

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

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

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

(c) If the governor finds that a suspension authorized by Subsection (b) should be continued beyond the first 30 days of a declared state of disaster and the legislature is not convened in regular or special session, the governor by proclamation shall convene the legislature in special session to respond to a state of disaster.

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

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

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

SECTION 9. Section 433.001, Government Code, is amended to read as follows:

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

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

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

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

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

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

(1) control of public and private transportation in
the affected area;

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

(3) control of the movement of persons;

(4) control of places of amusement or assembly;

(5) establishment of curfews;

(6) control of the sale, transportation, and use of
alcoholic beverages; and

(7) control of the storage, use, and transportation of
explosives or flammable materials considered dangerous to public
safety, other than explosives or flammable materials that are
components of firearm ammunition.

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

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

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

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

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

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

SECTION 14. This Act takes effect January 1, 2027, but only
if the constitutional amendment proposed by the 89th Legislature,
Regular Session, 2025, regarding the powers of the governor, the
legislature, and the supreme court following certain disaster or
emergency declarations is approved by the voters. If that
amendment is not approved by the voters, this Act has no effect.

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