

By: \_\_\_\_\_ .B. No. \_\_\_\_\_

Substitute the following for .B. No. \_\_\_\_\_:

By: \_\_\_\_\_ C.S. .B. No. \_\_\_\_\_

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authority of the legislature, governor, and certain  
3 political subdivisions with respect to disasters, including  
4 pandemic disasters, and emergencies.

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

6 SECTION 1. Section 418.002, Government Code, is amended to  
7 read as follows:

8 Sec. 418.002. PURPOSES. The purposes of this chapter are  
9 to:

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

14 (2) prepare for prompt and efficient rescue, care, and  
15 treatment of persons victimized or threatened by disaster;

16 (3) provide a setting conducive to the rapid and  
17 orderly restoration and rehabilitation of persons and property  
18 affected by disasters;

19 (4) clarify and strengthen the roles of the governor,  
20 state agencies, the judicial branch of state government, and local  
21 governments in prevention of, preparation for, response to, and  
22 recovery from disasters;

23 (5) authorize and provide for cooperation in disaster  
24 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.