

BILL ANALYSIS

Senate Research Center

S.B. 1025
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State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1025 clarifies that only the legislature may suspend a provision of the Penal, Criminal Procedure, or Election codes during any disaster declaration.

Additionally, only the legislature may restrict or impair the occupancy of a business or house of worship by category or region. S.B. 1025 restricts the governor's ability to suspend or limit the sale, use, and transportation of alcoholic beverages, firearms, explosives, and combustibles during times of disaster, but reauthorizes this power exclusively for emergency situations, where such measures better correspond to situations wherein citizen conduct has deteriorated to unrest, riot, or open revolt.

As proposed, S.B. 1025 amends current law relating to the authority of the legislature and governor with respect to certain disaster or emergency declarations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 418, Government Code, by adding Section 418.0125, as follows:

Sec. 418.0125. POWER RESERVED TO LEGISLATURE. (a) Provides that, notwithstanding any other law, during a declared state of disaster described by Section 8(c), Article IV (Executive Department), Texas Constitution, only the legislature has the authority to:

- (1) suspend a provision in the Code of Criminal Procedure, Election Code, or Penal Code to appropriately respond to the disaster;
- (2) restrict or impair the operation or occupancy of businesses or places of worship in this state by category or region to appropriately respond to the disaster; or
- (3) renew or extend the governor's state of disaster declaration.

(b) Requires the governor by proclamation to 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 2. Amends Section 418.014, Government Code, by amending Subsections (b) and (c) and adding Subsection (c-1), as follows:

(b) Provides that, except as provided by Subsection (c) or (c-1), rather than as provided by Subsection (c), the state of disaster continues until the governor finds that the threat or

that danger has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist, and the governor terminates the state of disaster by executive order.

(c) Prohibits a state of disaster from continuing for more than 30 days unless renewed by the governor, subject to Subsection (c-1).

(c-1) Requires the governor by proclamation, 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, to convene the legislature in special session to renew, extend, or otherwise respond to the state of disaster. Prohibits the governor from declaring 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 3. Amends Section 418.016(a), Government Code, to authorize the governor, subject to Section 418.0125, to 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. Makes a nonsubstantive change.

SECTION 4. Repealer: Section 418.019 (Restricted Sale and Transportation of Materials), Government Code.

SECTION 5. Amends Section 433.002, Government Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Authorizes the governor's directive, subject to Section 433.0025, to provide for certain restrictions regarding transportation and public places during a state of emergency. Makes nonsubstantive changes.

(b-1) Creates this subsection from existing text. Authorizes the directive, notwithstanding Section 433.0025, to also provide for certain restrictions on the sale, transportation, use, and storage of certain goods during a statement of emergency.

SECTION 6. Amends Chapter 433, Government Code, by adding Section 433.0025, as follows:

Sec. 433.0025. **POWER RESERVED TO LEGISLATURE.** (a) Provides that, notwithstanding Section 433.002 (Issuance of Directives) or any other law, during a state of emergency described by Section 8(c), Article IV, Texas Constitution, only the legislature has the authority to:

(1) suspend a provision in the Code of Criminal Procedure, Election Code, or Penal Code to appropriately respond to the emergency; or

(2) restrict or impair the operation or occupancy of businesses or places of worship in this state by category or region to appropriately respond to the emergency except as expressly provided by Subsection (b-1) of Section 433.002.

(b) Requires the governor by proclamation to convene the legislature in special session to respond to a state of emergency described by Section 8(c), Article IV, Texas Constitution, 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 7. Amends Section 433.003, Government Code, by amending Subsections (a) and (b) and by adding Subsection (c), as follows:

(a) Provides that, except as provided by Subsections (b) and (c), rather than as provided by Subsection (b), a directive expires 72 hours after the time of proclamation of the state of emergency for which it was issued.

(b) Authorizes the governor by proclamation to terminate or set a shorter period for a directive issued under Subsection (b) of Section 433.002. Authorizes the governor to proclaim successive states of emergency, each not exceeding 72 hours, as necessary to protect health, life, and property in the affected area, and to extend a directive issued under Subsection (b) of Section 433.002 from one state of emergency to the next.

(c) Authorizes the governor by proclamation to terminate or set a shorter period for a directive issued under Subsection (b-1) of Section 433.002. Requires that a directive issued under Subsection (b-1) of Section 433.002, in any case, expire no later than 9 days after the time of proclamation of the state of emergency for which it was issued.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: December 1, 2021, contingent upon approval by the voters. Provides that, if that constitutional amendment is not approved by the voters, this Act has no effect.