

BILL ANALYSIS

Senate Research Center

H.B. 2358
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Rapid response and the restoration of critical infrastructure following a natural disaster or similar emergency in Texas often involve out-of-state businesses and agencies, but the fact that each state has its own tax system, business registration, and occupational licensing requirements often creates unnecessary obstacles during times when swift, efficient, and coordinated efforts are required. The National Conference of State Legislatures has created model legislation to ensure that any one state's tax and regulatory policies do not unnecessarily delay or impede out-of-state disaster recovery assistance. H.B. 2358 seeks to implement a version of this model legislation to ensure that out-of-state businesses are able to efficiently assist Texans in times of need.

H.B. 2358 amends current law relating to the exemption from certain registration and licensing requirements and taxes for certain businesses and employees who enter this state in response to a disaster or emergency.

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 Subtitle C, Title 5, Business & Commerce Code, by adding Chapter 112, as follows:

CHAPTER 112. FACILITATING BUSINESS RAPID RESPONSE TO STATE DECLARED DISASTERS ACT

Sec. 112.001. SHORT TITLE. Provides that this chapter may be cited as the Facilitating Business Rapid Response to State Declared Disasters Act.

Sec. 112.002. LEGISLATIVE FINDINGS. Provides that the legislature finds that:

(1) during times of storm, flood, fire, earthquake, hurricane, or other disaster or emergency, many Texas businesses bring in resources and personnel from other states on a temporary basis to expedite the often enormous and overwhelming tasks of cleaning up, restoring, and repairing damaged buildings, equipment, and property, and deploying and building new replacement facilities in the state;

(2) accomplishing those tasks may necessitate out-of-state businesses, including out-of-state affiliates of Texas businesses, bringing into Texas resources, property, and personnel that previously had no connection to Texas to perform business activities in Texas, including repairing, renovating, installing, and building, for extended periods of time;

(3) during those periods of time, out-of-state businesses and employees performing business activities in Texas on a temporary basis solely for the purpose of helping the state recover from a disaster or emergency should not be

burdened by any requirements that the out-of-state businesses or employees pay taxes as a result of performing those activities; and

(4) to ensure that out-of-state businesses may focus on quickly responding to the needs of Texas and its citizens during a disaster or emergency, it is appropriate for the legislature to provide that those businesses and their employees are not subject to certain state and local registration and licensing requirements and taxes for performing business activities before, during, and after the disaster or emergency to repair and restore devastating damage to critical property and infrastructure in the state.

Sec. 112.003. DEFINITIONS. Defines "affiliate," "critical infrastructure," "declared state disaster or emergency," "disaster- or emergency-related work," "disaster response period," "in-state business entity," "mutual assistance agreement," "out-of-state business entity," and "out-of-state employee."

Sec. 112.004. EXEMPTION OF OUT-OF-STATE BUSINESS ENTITY FROM CERTAIN OBLIGATIONS DURING DISASTER RESPONSE PERIOD. Provides that, notwithstanding any other law and except as provided by Section 112.006, an out-of-state business entity whose transaction of business in this state is limited to the performance of disaster- or emergency-related work during a disaster response period is not required to:

- (1) register with the secretary of state of the State of Texas (SOS);
- (2) file a tax report with or pay taxes or fees to this state or a political subdivision of this state;
- (3) pay an ad valorem tax or use tax on equipment that is brought into the state by the entity, used only by the entity to perform disaster- or emergency-related work during the disaster response period, and removed from the state by the entity following the disaster response period;
- (4) comply with state or local business licensing or registration requirements; or
- (5) comply with state or local occupational licensing requirements or related fees.

Sec. 112.005. EXEMPTION OF OUT-OF-STATE EMPLOYEE FROM CERTAIN OBLIGATIONS DURING DISASTER RESPONSE PERIOD. Provides that, notwithstanding any other law and except as provided by Section 112.006, an out-of-state employee whose only employment in this state is for the performance of disaster- or emergency-related work during a disaster response period is not required to:

- (1) file a tax report with or pay taxes or fees to this state or a political subdivision of this state; or
- (2) comply with state or local occupational licensing requirements or related fees, if the employee is in substantial compliance with applicable occupational licensing requirements in the employee's state of residence or principal employment.

Sec. 112.006. TRANSACTION TAXES AND FEES. Provides that an out-of-state business entity whose transaction of business in this state is limited to the performance of disaster- or emergency-related work during a disaster response period or an out-of-state employee whose only employment in this state is for the performance of disaster- or emergency-related work during a disaster response period is subject to a transaction tax or fee, including a motor fuels tax, sales or use tax, hotel occupancy tax, and the tax imposed on the rental of a motor vehicle, that is imposed in this state, unless the entity or employee is otherwise exempt from the tax or fee.

Sec. 112.007. NOTIFICATION PROCEDURES. (a) Requires an out-of-state business entity, if requested by SOS, to provide to SOS a statement that the entity came to this state for the purpose of performing disaster- or emergency-related work during a disaster response period and that includes certain information as set forth.

(b) Requires an in-state business entity, if requested by SOS, to provide to SOS, along with the in-state business entity's contact information, the information listed in Subsection (a) for any affiliate of the in-state business entity that entered the state as an out-of-state business entity.

(c) Requires SOS to keep records of and make available to the public any statements or information provided to SOS under this section.

Sec. 112.008. OBLIGATIONS OF OUT-OF-STATE BUSINESS ENTITIES AND EMPLOYEES AFTER DISASTER RESPONSE PERIOD. Provides that an out-of-state business entity or out-of-state employee who remains in this state after a disaster response period is not entitled to any exemptions from obligations provided by this chapter.

Sec. 112.009. REGULATIONS. Requires SOS to adopt regulations, including developing any necessary forms or processes, to implement this chapter.

SECTION 2. (a) Amends Subchapter B, Chapter 151, Tax Code, by adding Section 151.0241, as follows:

Sec. 151.0241. PERSONS PERFORMING DISASTER- OR EMERGENCY-RELATED WORK. Defines "disaster- or emergency-related work," "disaster response period," and "out-of-state business entity" for the purpose of this section.

(b) Provides that an out-of-state business entity is not engaged in business in this state for purposes of Sections 151.107 (Retailer Engaged in Business in This State) and 151.403 (Who Must File a Report) or any other provision of this chapter applicable to a person engaged in business in this state if the entity's physical presence in this state is solely from the entity's performance of disaster- or emergency-related work during a disaster response period.

(b) Provides that Section 151.0241, Tax Code, as added by this section, does not affect tax liability accruing before the effective date of this Act. Provides that that liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 3. Effective date: upon passage or September 1, 2015.