

Senate State and Local Government Committee 1

Amendment No. 1 to SB0624

Dickerson
Signature of Sponsor

AMEND Senate Bill No. 624

House Bill No. 551*

by deleting all language after the caption and substituting instead the following:

WHEREAS, the General Assembly finds that facilitating rapid response by the state's critical infrastructure companies is an integral component of Tennessee's effective preparation and rapid response to any proclaimed state of emergency; and

WHEREAS, these companies often must temporarily bring into the State resources, property, and personnel from other states that previously have had no connection to the State to expedite the often enormous and overwhelming task of restoring and repairing communications facilities and other critical infrastructure facilities in the State; and

WHEREAS, during such time of operating in the State on a temporary basis solely for purposes of helping the State recover from the proclaimed state of emergency, the General Assembly finds these companies and their individual employees should not be burdened by taxes, registrations, licensing, or any other "regular course of business" requirements as a result of such activities, consistent with the intent of Tennessee Code Annotated, Section 58-2-102 and the treatment afforded to out-of-state resources and workers temporarily in the State under Tennessee Code Annotated, Section 58-2-403; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 58, Chapter 2, is amended by adding the following new part:

58-2-901.

This part shall be known and may be cited as the "Facilitating Business Rapid Response to State-Declared Disaster Act."

58-2-902.

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As used in this part:

(1) "Critical infrastructure" means real and personal property and equipment, including, but not limited to, buildings, offices, lines, poles, pipes, structures, and equipment that:

(A) Is owned or used by or for telecommunications service networks, mobile telecommunications service networks, internet access service networks, video programming service networks, direct-to-home satellite television programming service facilities, electric generation, transmission and distribution systems, gas distribution systems, water pipelines, and related support facilities; and

(B) Services multiple customers or citizens;

(2) "Disaster" has the same meaning as defined in § 58-2-101;

(3) "Disaster or emergency related work" means:

(A) Repairing, renovating, installing, building, and rendering services or other business activities that relate to critical infrastructure that has been damaged, impaired, or destroyed during a disaster or emergency; and

(B) Any activities conducted in good faith before a potential disaster or emergency to prepare for the provision of the work described in subdivision (2)(A);

(4) "Disaster response period" means the period that begins ten (10) days before the date of the earliest event establishing a disaster or emergency

and that ends one hundred twenty (120) days thereafter, or such later date as may be set by the governor or president of the United States;

(5) "Emergency" has the same meaning as defined in § 58-2-101;

(6) "Licensed business" means a business entity that is currently licensed to do business in this state;

(7) "Responding out-of-state business" means a business entity that, except for work related to a disaster or emergency, has no presence in this state, conducts no business in this state, and whose services are requested by a licensed business or by this state or a local government for purposes of performing disaster or emergency related work in this state, including, but not limited to, a business entity that is affiliated with a licensed business solely through common ownership and otherwise meets this definition of a responding out-of-state business; and

(8) "Responding out-of-state employee" means an employee of a responding out-of-state business or licensed business who does not work in this state, except for disaster or emergency related work.

58-2-903.

(a) Notwithstanding any law to the contrary, responding out-of-state businesses and responding out-of-state employees shall pay the following transaction taxes and fees, when the tax or fee is determined, collected, remitted, and reported by others duly registered and required to collect such taxes and fees:

(1) Fuel excise taxes imposed under title 67, chapter 3;

(2) State and local sales and use taxes imposed under title 67, chapter 6;

(3) Local hotel occupancy taxes imposed under title 67, chapter 4, part 14;

(4) Taxes imposed on the purchase or consumption of alcoholic beverages and beer under title 57; and

(5) Any other transaction tax or fee assessed, collected, or imposed on specific transactions or activities in the usual course of business without imposing any obligation on a responding out-of-state business or responding out-of-state employee to register, file a return, or otherwise self-report and remit the tax or fee due.

(b) Notwithstanding any law to the contrary, tangible personal property of a responding out-of-state business, upon being installed or affixed to real property within this state, sold or transferred to in-state persons, or otherwise coming to rest and acquiring situs within this state, is subject to use tax, ad valorem tax, and any other tax imposed directly or indirectly on such property.

(c) This part does not limit or otherwise alter or amend the power of a court to exercise personal or in rem jurisdiction over responding out-of-state businesses, responding out-of-state employees, or their property; provided, that such jurisdiction must not be used as a basis to impose a tax, fee, or other obligation contrary to this part.

(d) This part does not confer immunity from criminal prosecution in a court of this state.

58-2-904.

(a) A responding out-of-state employee:

(1) Must not be considered to have established residency or a presence in this state that would require the employee or the employee's employer to administer, file, or pay taxes or fees or to be subjected to pay any other state or local tax or fee, except as expressly provided for in this part; and

(2) When holding a license, certificate, or other permit issued by the state of the employee's permanent residence or any other state as evidence that the employee is qualified to perform professional, mechanical, or other services, must be deemed licensed, certified, or permitted by this state to render disaster or emergency related work involving such professional, mechanical, or other

services and must not be required to register, report, or pay any tax or fee related to such licensure, certification, or permitting in this state.

(b) A responding out-of-state business does not establish a level of presence during a disaster response period that would require the business to register, file, or remit state or local taxes or that would subject that business to any state licensing or registration requirements.

(c) Except as otherwise provided in this part, the protections afforded by this section must be interpreted broadly to relieve a responding out-of-state business and a responding out-of-state employee from any obligation to provide, require, or remit documentation, registration, taxes, fees, or other submissions or filings with this state or its political subdivisions, including, but not limited to, the following:

(1) Unemployment insurance;

(2) State and local occupational licensing fees;

(3) Registration for state and local sales and use tax, imposed by title 67, chapter 6, or any requirement to collect tax, file returns, or otherwise self-report or remit any sales or use tax to this state as a result of or in relation to any disaster or emergency related work;

(4) Any registration or regulation of businesses or public utilities by the secretary of state, public utilities commission, or any other agency or instrumentality of this state; and

(5) The franchise and excise tax imposed by title 67, chapter 4, parts 20 and 21, the business tax imposed by title 67, chapter 4, part 7, and any other state or local tax on or measured by, in whole or in part, net or gross income or receipts, so that all disaster or emergency related work of the responding out-of-state business that is conducted in this state must be disregarded with respect to any filing requirements for such tax, including the filing required for a unitary or combined group of which the responding out-of-state business may be a part. If

an affiliate of a responding out-of-state business is required to file a combined or consolidated return, the responding out-of-state business's income, revenue, or receipts from disaster or emergency related work in this state must not be sourced to this state and must not otherwise impact or increase the amount of income, revenue, or receipts apportioned to this state.

58-2-905.

After a disaster response period, if a responding out-of-state business or a responding out-of-state employee remains in this state:

- (1) Such business or individual loses the protections of this part; and
- (2) For purposes of computing franchise and excise tax imposed by title 67, chapter 4, parts 20 and 21, and the business tax imposed by title 67, chapter 4, part 7, the computation must include in the tax base net or gross income or receipts from activities transacted during the disaster response period.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.