

1 **SENATE FLOOR VERSION**

2 February 23, 2021

3 SENATE BILL NO. 541

By: Dahm and Jett

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7 An Act relating to the emergency management; amending
8 63 O.S. 2011, Section 683.8, which relates to powers
and duties of the governor; prohibiting closing
9 business; providing exception; amending 63 O.S. 2011,
10 Section 683.9, as last amended by Section 3, Chapter
17, 1st Extraordinary Session, O.S.L. 2013 (63 O.S.
11 Supp. 2020, Section 683.9), which relates to natural
or man-made emergency; defining term; modifying
12 language; providing an effective date; and declaring
an emergency.

13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 63 O.S. 2011, Section 683.8, is
16 amended to read as follows:

17 Section 683.8. A. The Governor shall have general direction
18 and control of the Oklahoma Department of Emergency Management and
19 shall be responsible for carrying out the provisions of the Oklahoma
20 Emergency Management Act of 2003. In the event of an emergency that
21 exceeds local capability, the Governor may assume direct operational
22 control over all or any part of the emergency management functions
23 within this state.

1 B. The Governor shall have general direction and control of
2 emergency management within the state and all officers, boards,
3 agencies, individual or groups established under the Emergency
4 Operations Plan. The Governor shall have the authority pursuant to
5 the Oklahoma Emergency Management Act of 2003 to establish such
6 offices, boards, agencies, or positions as may be necessary to carry
7 into effect the Emergency Operations Plan.

8 C. The Governor is authorized to cooperate with the federal
9 government, with other states, and with private agencies in all
10 matters pertaining to the emergency management of this state and of
11 the nation.

12 D. To effect the policy and purpose of the Oklahoma Emergency
13 Management Act of 2003, the Governor is further authorized and
14 empowered to:

15 1. Make, amend, and rescind the necessary orders and rules to
16 carry out the provisions of the Oklahoma Emergency Management Act of
17 2003 within the limits of authority conferred upon the Governor
18 herein, with due consideration of the emergency management plans of
19 the federal government;

20 2. Cause to be prepared and updated annually a comprehensive
21 plan and program for emergency management of this state, such plans
22 and programs to be integrated into and coordinated with the plans of
23 the federal government and of other states to the fullest possible
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1 extent, and to coordinate the preparation of plans and programs for
2 emergency management by the political subdivisions of this state;

3 3. Procure supplies and equipment in accordance with such plans
4 and programs, institute training programs and public information
5 programs, take all other preparatory steps, including the partial or
6 full activation of emergency management organizations in advance of
7 actual disaster, and to ensure the furnishing of adequately trained
8 and equipped personnel in time of need, during periods of national
9 emergency, or man-made or natural disasters that might occur in this
10 state, or which develop into emergency situations;

11 4. On behalf of this state, enter into mutual aid arrangements
12 with other states and coordinate mutual aid plans between political
13 subdivisions of this state;

14 5. Delegate any administrative authority vested in the Governor
15 pursuant to the Oklahoma Emergency Management Act of 2003, and
16 provide for subdelegation of any such authority;

17 6. Confirm the appointment of qualified emergency managers upon
18 recommendations of local authorities as provided in Section 683.11
19 of this title;

20 7. Cooperate with the President of the United States and the
21 heads of the Armed Forces, the Federal Emergency Management Agency,
22 and other appropriate federal officers and agencies, with the
23 officers and agencies of other states in matters pertaining to the
24

1 emergency management of the state and nation, including the
2 direction and control of:

- 3 a. state emergency management activations and exercises,
- 4 b. warnings for actual or exercise events and the
5 equipment to be used in connection therewith,
- 6 c. the conduct of civilians and the movement of and
7 cessation of movement of pedestrians and vehicular
8 traffic during, prior and subsequent to natural and
9 man-made disasters and emergencies,
- 10 d. public meetings or gatherings, and
- 11 e. the evacuation and reception of the civil population;
12 and

13 8. Prescribe uniform signals, warnings, alerts, credentials and
14 insignia.

15 E. In addition to prevention measures included in the state and
16 local comprehensive plans and programs for emergency management, the
17 Governor shall consider on a continuing basis steps that could be
18 taken to mitigate the harmful consequences of emergencies and
19 natural disasters. At the Governor's direction and pursuant to any
20 other authority specified by law, state agencies, including, but not
21 limited to, those charged with responsibilities in connection with
22 floodplain management, stream encroachment and flow regulation,
23 weather modification, fire prevention and control, air quality,
24 public works, land use and land use planning, and construction

1 standards, shall make studies of matters related to potential ~~to~~
2 emergency and natural disasters or to mitigate emergency and natural
3 disasters. The Governor, from time to time, shall make such
4 recommendations to the Legislature, to political subdivisions and to
5 other appropriate public and private entities as may facilitate
6 measures for mitigation of the harmful consequences of emergencies
7 and natural disasters.

8 F. Pursuant to the Inherent Rights clause in Section 2 of
9 Article 2 of the Oklahoma Constitution which states "All persons
10 have the inherent right to life, liberty, the pursuit of happiness,
11 and the enjoyment of the gains of their own industry", during a
12 pandemic under a declared state of emergency by the Governor or the
13 President of the United States, the Governor of this state shall not
14 be authorized to close or force the closing of any business without
15 documented scientific evidence that the nature of a particular
16 business actually contributes to the direct spreading of disease
17 relating to the pandemic. The Governor shall be required to give
18 notice, due process and hearing to any business determined to be
19 nonessential or detrimental to the health and safety of citizens
20 during a pandemic before issuing an executive order against keeping
21 such business open.

22 SECTION 2. AMENDATORY 63 O.S. 2011, Section 683.9, as
23 last amended by Section 3, Chapter 17, 1st Extraordinary Session,
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1 O.S.L. 2013 (63 O.S. Supp. 2020, Section 683.9) is amended to read
2 as follows:

3 Section 683.9. The provisions of this section shall be
4 operative only during the existence of a natural or man-made
5 emergency. The existence of such emergency may be proclaimed by the
6 Governor or by concurrent resolution of the Legislature if the
7 Governor in such proclamation, or the Legislature in such
8 resolution, finds that an emergency or disaster has occurred or is
9 anticipated in the immediate future. Any such emergency, whether
10 proclaimed by the Governor or by the Legislature, shall terminate
11 upon the proclamation of the termination thereof by the Governor, or
12 by passage by the Legislature of a concurrent resolution terminating
13 such emergency. During such period as such state of emergency
14 exists or continues, the Governor shall have and may exercise the
15 following additional emergency powers:

16 1. To activate the Emergency Operations Plan, and to assume
17 regulatory control over all essential resources of this state,
18 directly or through the boards, agencies, offices and officers
19 established by the Emergency Operations Plan, to determine
20 priorities of such resources and allocate such resources as the
21 Governor may deem necessary in cooperation with the political
22 subdivisions of this state, the federal government, or other states.

23 For purposes of this paragraph:

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1 a. ~~"Resources resources"~~ shall mean means all economic
2 resources within this state including, but not limited
3 to, food, manpower, health, water, transportation,
4 economic stabilization, electric power, petroleum,
5 gas, ~~and~~ solid fuel, industrial production,
6 construction and housing, and

7 b. "economic stabilization" means the maintaining of the
8 monetary, taxation and revenue policies of this state
9 without a negative effect to the market economy and
10 its operations and specifically excludes the
11 determination of essential or nonessential private
12 business enterprises or the closing of private
13 business enterprises.

14 2. To enforce all laws, rules and regulations relating to
15 emergency management and to assume direct operational control of any
16 or all emergency management forces and helpers in this state.

17 3. To provide for the evacuation of all or part of the
18 population from any stricken or threatened area or areas within this
19 state and to take such steps as are necessary for the receipt and
20 care of such evacuees.

21 4. Subject to the provisions of the ~~State~~ Oklahoma
22 Constitution, to remove from office any public officer having
23 administrative responsibilities under this act for willful failure
24 to obey any order, rule or regulation adopted pursuant to this act.

1 Such removal shall be upon charges after service upon such person of
2 a copy of such charges and after giving such person an opportunity
3 to be heard in the defense of such person. Pending the preparation
4 and disposition of charges, the Governor may suspend such person for
5 a period not exceeding thirty (30) days. A vacancy resulting from
6 removal or suspension pursuant to this section shall be filled by
7 the Governor until it is filled as otherwise provided by law.

8 5. To perform and exercise such other functions, powers, and
9 duties as are necessary to promote and secure the safety and
10 protection of the civilian population and to carry out the
11 provisions of the Emergency Operations Plan in a national or state
12 emergency.

13 SECTION 3. This act shall become effective July 1, 2021.

14 SECTION 4. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
19 February 23, 2021 - DO PASS
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