

1 SB309
2 157539-3
3 By Senators Reed and Smitherman
4 RFD: Commerce, Transportation, and Utilities
5 First Read: 04-FEB-14

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8 SYNOPSIS: This bill would create the Facilitating
9 Business Rapid Response to Declared Disasters Act
10 of 2014.

11 This bill would provide for establishing
12 presence, residency, or doing business in the state
13 for out-of-state employees and businesses,
14 including affiliates of in-state businesses, that
15 temporarily provide resources and personnel in the
16 state during a state of emergency declared by
17 either the Governor, the President of the United
18 States, the Legislature, or other authorized
19 representative.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 To create the Facilitating Business Rapid Response
26 to Declared Disasters Act of 2014; to provide definitions; and
27 to provide a means for out-of-state businesses and

1 out-of-state employees to establish temporary presence and
2 residency in the state for purposes of responding to a
3 declared state of emergency in the state.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. This act shall be known and may be cited
6 as the Facilitating Business Rapid Response to Declared
7 Disasters Act of 2014.

8 Section 2. For the purposes of this act, the
9 following terms shall have the following meanings:

10 (1) DECLARED STATE DISASTER OR EMERGENCY. A disaster
11 or emergency event within the state for which either of the
12 following applies:

13 a. A Governor's State of Emergency Proclamation has
14 been issued.

15 b. A presidential declaration of a federal major
16 disaster or emergency has been issued.

17 c. A joint resolution of the Legislature has been
18 issued.

19 d. A good faith response effort is required for
20 which another authorized official of the state is given
21 notification from a registered business in the state and such
22 official designates such event as a disaster or emergency.

23 (2) DISASTER OR EMERGENCY RELATED WORK. Repairing,
24 renovating, installing, building, rendering service, or other
25 business activities that relate to infrastructure that has
26 been damaged, impaired, or destroyed by the declared state
27 disaster or emergency.

1 (3) DISASTER PERIOD. A period that begins 10
2 calendar days before the declared state disaster or emergency
3 and that extends for a period of 60 calendar days after the
4 end of the declared state disaster or emergency period, or any
5 longer period authorized by the Governor or other authorized
6 individual or entity.

7 (4) INFRASTRUCTURE. Property and equipment owned or
8 used by communications networks, broadband and internet
9 service providers, cable and video service providers, electric
10 generation, transmission and distribution systems, gas
11 distribution systems, water pipelines, and public roads and
12 bridges and related support facilities that service multiple
13 customers or citizens including, but not limited to, real and
14 personal property, such as buildings, offices, lines, poles,
15 pipes, structures, and equipment.

16 (5) OUT-OF-STATE BUSINESS. A business entity whose
17 services are requested by a registered business in the state
18 that owns or operates infrastructure in this state or by a
19 state or local government for purposes of performing disaster
20 or emergency related work in the state that meets one of the
21 following tests:

22 a. During the previous 12 months, the business
23 entity did not have employees in Alabama who were subject to
24 Alabama's income tax withholding requirements, excluding
25 employees who were in Alabama for previous disaster or
26 emergency related work.

1 b. The business entity is headquartered outside
2 Alabama and is affiliated through common ownership with the
3 registered business in the state requesting such disaster or
4 emergency related work in Alabama.

5 (6) OUT-OF-STATE EMPLOYEE. An employee who does not
6 work in the state except for disaster or emergency work
7 related during one or more disaster periods.

8 (7) REGISTERED BUSINESS IN THE STATE. A business
9 entity that is registered to do business in the state before
10 the declared state disaster or emergency.

11 Section 3. (a) An out-of-state employee performing
12 disaster related work shall not be considered to have
13 established residency or a presence in the state that would
14 require that person or his or her employer to file and pay
15 income taxes or to be subject to tax withholdings or to file
16 and pay any other state or local tax or fee during one or more
17 disaster periods. This includes any related state or local
18 employer withholdings and remittance obligations, but does not
19 include any transaction taxes and fees as described in
20 subsection (d).

21 (b) Any out-of-state business that has no
22 registrations or tax filings or nexus in the state prior to a
23 declared state disaster or emergency that enters the state
24 solely to conduct operations within the state for purposes of
25 performing disaster or emergency related work during any
26 disaster period shall not: (1) With respect to the
27 requirements of Alabama law other than those codified in Title

1 37, Code of Alabama 1975, be considered to have established a
2 level of presence that would require that business or its
3 out-of-state employees or property to be subject to any state
4 or local taxes, licensing, registration, or filing
5 requirements including, without limitation, state or local
6 income taxes, payroll taxes, occupational and business
7 licensing fees, privilege or franchise taxes, certification
8 requirements, or Secretary of State licensing requirements,
9 and (2) with respect to the requirements of Title 37, Code of
10 Alabama 1975, be subject to the certification requirements of
11 Section 37-2-4 or Section 37-2A-9, Code of Alabama 1975.
12 Except as expressly provided in the preceding sentence,
13 nothing in this act shall be construed to amend or affect any
14 other provisions or requirements of Title 37, Code of Alabama
15 1975. For the purpose of apportioning income, the payroll,
16 sales or gross receipts, and property of the business related
17 to the conduct of disaster or emergency work shall not be
18 sourced or taxable to or by the state or any locality. The
19 business shall also not be subject to any use tax or ad
20 valorem tax on equipment brought into the state during a
21 disaster period for use or consumption during the disaster
22 period. Business that is conducted in this state pursuant to
23 this act shall be disregarded with respect to whether a return
24 must be filed for such tax or fee including any filing
25 required for a unitary or combined group of which the
26 out-of-state business may be a part.

1 (c) Any out-of-state business that has registrations
2 or tax filings or nexus in the state prior to a declared state
3 disaster or emergency shall not: (1) With respect to the
4 requirements of Alabama law other than those codified in Title
5 37, Code of Alabama 1975, be considered to have established an
6 additional level of presence, to the extent such business
7 conducts additional operations within the state for purposes
8 of performing disaster or emergency related work during any
9 disaster period, that would require that business or its
10 out-of-state employees or property to be further subject to
11 any state or local taxes, licensing, registration, or filing
12 requirements including, without limitation, state or local
13 income taxes, occupational and business licensing fees,
14 payroll taxes, privilege or franchise taxes, certification
15 requirements, or Secretary of State licensing requirements,
16 and (2) with respect to the requirements of Title 37, Code of
17 Alabama 1975, be subject to the certification requirements of
18 Section 37-2-4 or Section 37-2A-9, Code of Alabama 1975.
19 Except as expressly provided in the preceding sentence,
20 nothing in this act shall be construed to amend or affect any
21 other provisions or requirements of Title 37, Code of Alabama
22 1975. For the purpose of apportioning income, the payroll,
23 sales or gross receipts, and property of the business related
24 to the conduct of disaster or emergency work shall not be
25 sourced or taxable to or by the state or any locality. The
26 business shall also not be subject to any use tax or ad
27 valorem tax on equipment brought into the state during a

1 disaster period for use or consumption during the disaster
2 period. Business that is conducted in this state pursuant to
3 this act shall be disregarded with respect to whether a return
4 must be filed for such tax or fee including any filing
5 required for a unitary or combined group of which the
6 out-of-state business may be a part.

7 (d) Except as otherwise provided in subsections (b)
8 and (c), with respect to equipment that is brought into the
9 state during a disaster period for use or consumption during
10 the disaster period, an out-of-state employee and out-of-state
11 business shall be required to pay transaction taxes and fees
12 including, but not limited to, fuel taxes, sales or use taxes
13 on materials or services subject to sales and use tax, hotel
14 taxes, and car rental taxes, or taxes or fees for use or
15 consumption of materials and services in the state during a
16 disaster period.

17 (e) Any out-of-state employee or out-of-state
18 business that remains in or otherwise enters the state after
19 one or more disaster periods shall thereafter become subject
20 to the state's normal standards for establishing presence,
21 residency, or doing business in the state, state and local
22 registration requirements, licensing requirements, filing
23 requirements, and employee and business tax requirements, but
24 not retroactive to the disaster period.

25 (f) An out-of-state business, upon request, shall
26 provide to the Secretary of State and to the Department of
27 Revenue a statement that the business is in the state for the

1 purpose of responding to the declared state disaster or
2 emergency, which statement shall include the name of the
3 business, state of domicile, principal business address,
4 federal taxpayer identification number, date of entry, and
5 contact information.

6 (g) A registered business in the state, upon
7 request, shall provide the information required in subsection
8 (f) for any affiliate that is an out-of-state business,
9 including contact information for the registered business.

10 Section 4. This act shall become effective
11 immediately following its passage and approval by the
12 Governor, or its otherwise becoming law.