Proposed Amendment
Prepared by M Sterling
2/12/15
Office of Revisor of Statutes

Session of 2015

SENATE BILL No. 109

By Committee on Utilities

1-29

AN ACT concerning emergencies and disasters; creating the Kansas disaster utilities response act; department of revenue.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) For the purposes of this section:

(1) "Declared state disaster or emergency" means a disaster or emergency event declared by the governor pursuant to K.S.A. 48-924, and amendments thereto, a state or local disaster emergency declared by the chair of the board of county commissioners of any county or by the mayor or other principal executive officer of a city pursuant to K.S.A. 48-932, and amendments thereto, or a presidential declaration of a federal major disaster or emergency.

(2) "Disaster response period" means a period that begins 10 days prior to the first day of a declared state disaster or emergency and that extends for a period of 60 calendar days after the end of the declared disaster or emergency period or any longer period authorized by the governor.

(3) "Disaster or emergency-related work" means repairing, renovating, installing, building or rendering services or other business activities ~~that relate~~ on or related to critical infrastructure that has been damaged, impaired or destroyed by ~~the~~ any declared state disaster or emergency.

(4) "Critical infrastructure" means property and equipment, or any related support facilities that service multiple customers or citizens, including, but not limited to, real and personal property such as buildings, offices, lines, poles, pipes, structures and equipment, that are owned or used by operators of:

(A) Telecommunications, cable or other communications networks;

(B) electric generation, transmission or distribution systems;

(C) natural gas and natural gas liquids gathering, processing, storage, transmission or distribution systems; or

(D) water pipelines.

(5) "Registered business" means a business entity that, prior to ~~the~~ any declared state disaster or emergency and work related thereto, is registered with the secretary of state, in good standing and authorized to do business in the state.

(6) "Out-of-state business" means a business entity that, prior to ~~the~~ any

Proposed Amendment
Prepared by M Sterling
2/12/15
Office of Revisor of Statutes

declared state disaster or emergency and work related thereto:

(A) Has no presence, registrations or tax filings in the state and conducts no business in the state~~; and~~

except for disaster or emergency-related work during any disaster response period

(B) is requested by a registered business, state agency, county or city disaster agency established pursuant to K.S.A. 48-929, and amendments thereto, or interjurisdictional disaster agency established pursuant to K.S.A. 48-930, and amendments thereto, to provide disaster or emergency-related work in the state. ~~This shall also include a business entity affiliated with a registered business solely through common ownership.~~

An "out-of-state business"

during any disaster response period

(7) "Out-of-state employee" means an individual who does not work in the state, except for disaster or emergency-related work during ~~the~~ disaster response period.

any

(8) "State agency" shall have the meaning ascribed to such term in K.S.A. 75-3701, and amendments thereto.

(b) (1) An out-of-state business that conducts operations within the state for purposes of performing disaster or emergency-related work during ~~the disaster~~ period shall not be considered to have established a level of presence that would require that business to register, file or remit state or local taxes or that would require that business or such business' out-of-state employees to be subject to any state licensing or registration requirements, including:

any

response

, as a result of such disaster or emergency-related work,

(A) Any and all state or local business licensing or registration requirements;

(B) state or local taxes or fees including, but not limited to, state income and employer withholding taxes, unemployment insurance, state or local occupational licensing fees, sales and use tax or ad valorem tax on equipment used or consumed during ~~the~~ disaster response period; and

any

(C) licensing and regulatory requirements of the state corporation commission or the secretary of state.

(2) For purposes of any state or local tax on or measured by, in whole or in part, net or gross income or receipts, all ~~activity of the out-of-state~~ business that is conducted in this state pursuant to this section shall be disregarded with respect to any filing requirements for such tax, including the filing required for a unitary or combined group of which the out-of-state business may be a part. For the purpose of apportioning income, revenue or receipts, the performance by an out-of-state business of any work in accordance with this section shall not be sourced to or shall not otherwise impact or increase the amount of income, revenue or receipts apportioned to this state.

disaster or emergency-related work

(3) Any out-of-state employee shall not be considered to have established residency or a presence in the state that would require the employee or the employee's employer to file and pay state income taxes or to be subjected to tax withholdings or to file and pay any other state or

Proposed Amendment
Prepared by M Sterling
2/12/15
Office of Revisor of Statutes

local tax or fee during ~~the~~ disaster response period. This includes any related state or local employer withholding and remittance obligations.

any

(c) Out-of-state businesses and out-of-state employees shall pay transaction taxes and fees, including, but not limited to, fuel taxes or sales or use taxes, on tangible personal property, materials or services, consumed or used in the state subject to sales or use taxes, hotel taxes, car rental taxes or fees that the out-of-state business or out-of-state employee purchases for use or consumption in the state during ~~the~~ disaster response period, unless such taxes are otherwise exempted ~~during a disaster~~ response period.

such

(d) Any out-of-state business or out-of-state employee that remains in the state after ~~the~~ disaster response period will become subject to the state's normal standards for establishing presence, residency or doing business in the state and will be responsible for any business or employee tax requirements or obligations thereafter.

any

(e) (1) Any out-of-state business that enters the state shall, upon request, provide to the department of revenue a written statement that ~~it~~ is in the state for purposes of responding to a declared state disaster or emergency. Such statement shall include the out-of-state business' name, state of domicile, principal business address, federal tax identification number, date of entry and contact information.

such out-of-state business

(2) A registered business shall, upon request, provide the department of revenue the information required in this subsection for any affiliate that enters the state that is an out-of-state business. The notification shall also include contact information for the registered business.

(3) Any out-of-state business or out-of-state employee that remains in the state after ~~the disaster response~~ period shall complete and comply with all state and local registration, licensing and filing requirements that ensue as a result of establishing the requisite business presence or residency in the state applicable under the existing rules.

(4) The department of revenue shall maintain an annual record of all declared state disasters and emergencies pursuant to this section and may promulgate any rules and regulations necessary to effectuate the provisions of this section.

(f) No provision of this act shall be interpreted to exempt any person from the requirements of K.S.A. 2014 Supp. 50-6,121 through 50-6,138, and amendments thereto.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.