

As Amended by House Committee

As Amended by Senate Committee

Session of 2015

SENATE BILL No. 109

By Committee on Utilities

1-29

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

3
4 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

18 (3) "Disaster or emergency-related work" means ***work in preparation***
19 ***for a disaster and*** repairing, renovating, installing, building or rendering
20 services or other business activities ~~that relate~~ ***on or related*** to critical
21 infrastructure that has been damaged, impaired or destroyed by ~~the~~ ***any***
22 declared state disaster or emergency.

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

28 (A) Telecommunications, cable or other communications networks;

29 (B) electric generation, transmission or distribution systems;

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

32 (D) water pipelines.

33 (5) "Registered business" means a business entity that, prior to ~~the~~
34 ***any*** declared state disaster or emergency and work related thereto, is

1 registered with the secretary of state, in good standing and authorized to do
2 business in the state.

3 (6) "Out-of-state business" means a business entity that, prior to ~~the~~
4 **any** declared state disaster or emergency and work related thereto:

5 (A) Has no presence, registrations or tax filings in the state and
6 conducts no business in the state **except for disaster or emergency-related**
7 **work during any disaster response period**; and

8 (B) is requested by a registered business, state agency, county or city
9 disaster agency established pursuant to K.S.A. 48-929, and amendments
10 thereto, or interjurisdictional disaster agency established pursuant to
11 K.S.A. 48-930, and amendments thereto, to provide disaster or emergency-
12 related work in the state **during any disaster response period**.—~~This~~ **An**
13 **"out-of-state business"** shall also include a business entity affiliated with
14 a registered business solely through common ownership.

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

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

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

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

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

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

36 (2) For purposes of any state or local tax on or measured by, in whole
37 or in part, net or gross income or receipts, all ~~activity~~ **disaster or**
38 **emergency-related work** of the out-of-state business that is conducted in
39 this state pursuant to this section shall be disregarded with respect to any
40 filing requirements for such tax, including the filing required for a unitary
41 or combined group of which the out-of-state business may be a part. For
42 the purpose of apportioning income, revenue or receipts, the performance
43 by an out-of-state business of any work in accordance with this section

1 shall not be sourced to or shall not otherwise impact or increase the
2 amount of income, revenue or receipts apportioned to this state.

3 (3) Any out-of-state employee shall not be considered to have
4 established residency or a presence in the state that would require the
5 employee or the employee's employer to file and pay state income taxes or
6 to be subjected to tax withholdings or to file and pay any other state or
7 local tax or fee during ~~the~~ **any** disaster response period. This includes any
8 related state or local employer withholding and remittance obligations.

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

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

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

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

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

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

41 (f) *No provision of this act shall be interpreted to exempt any*
42 *person from the requirements of K.S.A. 2014 Supp. 50-6,121 through*
43 *50-6,138, and amendments thereto.*

1 Sec. 2. This act shall take effect and be in force from and after its
2 publication in the ~~statute book~~ **Kansas register**.