

SENATE BILL NO. 2124

Introduced by

Senators Myrdal, Burckhard, Dever, Hogue

Representatives Louser, Rohr

1 A BILL for an Act to create and enact a new section to chapter 54-03 of the North Dakota
2 Century Code, relating to permitting a virtual ~~special~~ session of the legislative assembly during
3 an emergency or disaster; ~~and~~ to amend and reenact subsection 12 of section 23-01-05 and
4 section 37-17.1-05 of the North Dakota Century Code, relating to the state health officer's and
5 governor's authority during a declared disaster or emergency; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 12 of section 23-01-05 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 12. Issue any orders relating to disease control measures deemed necessary to prevent
10 the spread of communicable disease during an emergency or disaster declared by the
11 governor or as otherwise specifically authorized in this title. Disease control measures
12 may include special immunization activities and decontamination measures. Written
13 orders issued under this section ~~shall~~ have the same effect as a physician's standing
14 medical order. The state health officer may apply to the district court in a judicial
15 district where a communicable disease is present for an injunction canceling public
16 events or closing places of business. On application of the state health officer showing
17 the necessity of ~~such~~the cancellation, the court may issue an ex parte preliminary
18 injunction, pending a full hearing. An order issued under this ~~section~~subsection during
19 an emergency or disaster may not exceed in duration or scope the authority of the
20 governor under chapter 37.1-17.1.

21 **SECTION 2. AMENDMENT.** Section 37-17.1-05 of the North Dakota Century Code is
22 amended and reenacted as follows:

1 **37-17.1-05. The governor and disasters or emergencies - Penalty.**

2 1. The governor is responsible to minimize or avert the adverse effects of a disaster or
3 emergency.

4 2. Under this chapter, the governor may issue executive orders and proclamations, and
5 amend or rescind them. Executive orders, proclamations, and regulations have the
6 force of law.

7 3. A disaster or emergency must be declared by executive order or proclamation of the
8 governor if the governor determines a disaster has occurred or a state of emergency
9 exists. The

10 a. ~~Except as provided in subdivision~~subdivisions b and c, the state of disaster or
11 emergency shall continue until the governor determines that the threat
12 of an emergency has passed or the disaster has been dealt with to the extent
13 that emergency conditions no longer exist, or the declared state of disaster or
14 emergency has been in effect for thirty days, whichever occurs first.

15 b. ~~A declared state of disaster or emergency may be extended for an additional~~
16 thirty days beyond the initial thirty days if the governor, before or on the thirtieth
17 day of the declared state of disaster or emergency, calls a special session of the
18 legislative assembly to be held between the thirty-first and sixtieth day after the
19 original declaration, the declared state of disaster or emergency remains in effect
20 through the sixtieth day after the original declaration, unless terminated or
21 extended by a concurrent resolution of the legislative assembly.

22 c. The legislative assembly by concurrent resolution may terminate or extend a
23 state of disaster or emergency at any time.

24 d. If a state of disaster or emergency terminates after thirty or sixty days or is
25 terminated by concurrent resolution of the legislative assembly, the governor may
26 not declare another state of disaster or emergency for the same disaster or
27 emergency conditions.

28 e. When a state of disaster or emergency terminates, an executive order issued
29 under this section in response to the disaster or emergency ceases to be
30 effective.

- 1 | e.f. All executive orders or proclamations issued under this subsection must indicate
2 | the nature of the disaster or emergency, the area or areas threatened, the
3 | conditions ~~which~~that have brought ~~it~~the disaster or emergency about or which
4 | make possible termination of the state of disaster or emergency. An executive
5 | order or proclamation must be disseminated promptly by means calculated to
6 | bring ~~it~~the order's contents to the attention of the general public, unless the
7 | circumstances attendant upon the disaster or emergency prevent or impede such
8 | dissemination, and ~~it~~the order must be ~~promptly~~ filed promptly with the
9 | department of emergency services, the legislative council, the secretary of state,
10 | and the county or city auditor of the jurisdictions affected.
- 11 | 4. An executive order or proclamation of a state of disaster or emergency shall activate
12 | the state and local operational plans applicable to the political subdivision or area in
13 | question and be authority for the deployment and use of any forces to which the plan
14 | or plans apply and for use or distribution of any supplies, equipment, and materials
15 | and facilities assembled, stockpiled, or arranged to be made available pursuant to this
16 | chapter or any other provision of law relating to a disaster or emergency.
- 17 | 5. During the continuance of any state of disaster or emergency declared by the
18 | governor, the governor is commander in chief of the emergency management
19 | organization and of all other forces available for emergency duty. To the greatest
20 | extent practicable, the governor shall delegate or assign command authority by prior
21 | arrangement embodied in appropriate executive orders or emergency operational
22 | plans, but nothing herein restricts the governor's authority to do so by orders issued at
23 | the time of the disaster or emergency.
- 24 | 6. In addition to any other powers conferred upon the governor by law, the governor may:
25 | a. Suspend the provisions of any regulatory statute prescribing the procedures for
26 | conduct of state business, or the orders, rules, or regulations of any state agency,
27 | if strict compliance with the provisions of any statute, order, rule, or regulation
28 | would in any way prevent, hinder, or delay necessary action in managing a
29 | disaster or emergency.

- 1 b. Utilize all available resources of the state government as reasonably necessary
2 to manage the disaster or emergency and of each political subdivision of the
3 state.
- 4 c. Transfer the direction, personnel, or functions of state departments and agencies
5 or units thereof for the purpose of performing or facilitating emergency
6 management activities.
- 7 d. Subject to any applicable requirements for compensation under section
8 37-17.1-12, commandeer or utilize any private property if the governor finds this
9 necessary to manage the disaster or emergency.
- 10 e. Direct and compel the evacuation of all or part of the population from any stricken
11 or threatened area within the state if the governor deems this action necessary
12 for the preservation of life or other disaster or emergency mitigation, response, or
13 recovery.
- 14 f. Prescribe routes, modes of transportation, and destinations in connection with an
15 evacuation.
- 16 g. Control ingress and egress in a designated disaster or emergency area, the
17 movement of persons within the area, and the occupancy of premises therein.
- 18 h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages,
19 explosives, and combustibles, not including ammunition.
- 20 i. Make provision for the availability and use of temporary emergency housing.
- 21 j. Make provisions for the control, allocation, and the use of quotas for critical
22 shortages of fuel or other life and property sustaining commodities.
- 23 k. Designate members of the highway patrol, North Dakota national guard, or others
24 trained in law enforcement, as peace officers.
- 25 7. The governorDuring a declared state of disaster or emergency, a public official or
26 executive branch employee may not issue an executive order under this section which
27 restricts withhold, direct, or require the use or expenditure of any money in a manner or
28 for a purpose other than the manner or purpose for which the money was appropriated
29 by the legislative assembly, emergency commission, or budget section.
- 30 8. Any person who willfully violates any provision of an executive order or proclamation
31 issued by the governor pursuant to this chapter is guilty of an infraction.

1 8. Authorize

2 9. The governor may authorize the adjutant general to recall to state active duty, on a
3 volunteer basis, former members of the North Dakota national guard. Those recalled
4 must possess the qualifications required by the disaster or emergency. Recall under
5 this subsection is effective only for the duration of the disaster or emergency and
6 recalled personnel will be released from state active duty upon competent authority
7 that the requirement of their service under this subsection has passed. Compensation
8 for personnel recalled under this subsection will be based upon section 37-07-05.

9 **SECTION 3.** A new section to chapter 54-03 of the North Dakota Century Code is created
10 and enacted as follows:

11 | **Virtual ~~special~~ session of the legislative assembly during emergency or disaster.**

- 12 1. If the governor calls a special session of the legislative assembly to address a state of
13 emergency or disaster or if the legislative assembly reconvenes to address a state of
14 emergency or disaster, the legislative assembly may use any technology or electronic
15 means available to conduct meetings and transact legislative business.
- 16 2. For purposes of section 7 of article IV of the Constitution of North Dakota, a meeting of
17 the legislative assembly which occurs under this section is deemed to have occurred
18 at the seat of the government, and all actions taken during the meeting have the same
19 legal effect as if the members of the legislative assembly were physically present at
20 the seat of government.