



State and Local Emergency Powers

Brief Overview

OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

Political Subdivisions Interim Committee

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Disaster Response and Recovery Act

- **Part of Emergency Management Act**
 - Title 53 (Public Safety Code), Chapter 02a

- **Purpose: assist Governor & Political Subdivisions in disaster response & recovery efforts**



Declaring a State of Emergency

- **Declared by Executive Order of Governor**
 - Requires finding that disaster occurred or will occur in any area of the state
 - “Disaster” by definition includes epidemic

- **Term: valid for no longer than 30 days unless extended by Legislature**
 - Legislature may extend by joint resolution
 - Legislature may also terminate by joint resolution at any time



Declaring a Local Emergency

- **CEO of county or municipality may declare by Proclamation**
- **Term: valid for no longer than 30 days unless extended with consent of governing body**
- **Effect of Local Emergency Declaration:**
 - Official recognition that disaster exists
 - Legal basis for requesting/obtaining disaster assistance
 - Activates response in local emergency plans
 - Authorizes furnishing of aid and assistance



Powers Unique to Governor

- **Commander in Chief of state military**
- **Suspend rules & regs of state agencies**
- **Suspend statute by executive order**
 - Must be directly related to disaster, necessary & done in good faith
 - Notice to Speaker & President within 24 hours
 - Report to Legislative Management Committee
- **Apply for federal loans/grants on behalf of political subdivisions**
- **Purchase/lease property**
- **Execute interstate agreements with other states**
- **Make recommendations to Legislature**



Powers Unique to CEOs of Political Subdivisions

- **Authority applies to CEO of any political subdivision:**
 - Municipalities
 - Counties
 - Special service districts
 - Local districts
- **Definition of “CEO”**
 - Municipalities: Mayor/city manager
 - Counties: depends on form of county govt
 - County Commission: chair of commission
 - County Executive: county executive officer
 - Council-Manager: county manager
 - Special Service Districts: officer delegated authority by governing body or CEO of creating entity if authority not delegated
 - Local Districts: chair of board or other officer delegated authority



Powers Unique to CEOs of Political Subdivisions

- **Carry out measures ordered by Governor**
- **Invoke mutual aid agreements**
- **Take any additional measures necessary & authorized under statute**
- **Limitation: Political Subs cannot take action that conflicts with order or action of Governor**



Powers Shared by Governor & CEOs

- **Utilize all available resources**
- **Issue orders & regulations to direct state/local officers**
- **Issue evacuation orders**
- **Manage disaster area/movement of people**
- **Suspend sale of alcohol & explosives in connection with evacuation**
 - Does not apply to lawful bearing of firearms
- **Removal of debris/wreckage**



New Limits on Governor's Powers

- **H.B. 3005, Pandemic and Emergency Response Act**
 - Took effect May 11, 2020
 - Governor cannot take “executive action” in response to epidemic/pandemic unless 24 hour advance notice given to Legislative Pandemic Response Team
 - Executive Action: declaring a SOE, issuing order, suspending statute
 - Exception: immediate threat of injury, loss of life, harm to property
 - Legislature may terminate executive action or directive of Governor by joint resolution at any time



Questions?

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