

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED 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 session of the legislative assembly during an
3 emergency or disaster; to amend and reenact subsection 12 of section 23-01-05 and section
4 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 subsection during an
19 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 subdivisions b and c, the state of disaster or emergency
11 shall continue until the governor determines that the threat of an
12 emergency has passed ~~or~~, the disaster has been dealt with to the extent that
13 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. If the governor, before or on the thirtieth day of the declared state of disaster or
16 emergency, calls a special session of the legislative assembly to be held between
17 the thirty-first and sixtieth day after the original declaration, the declared state of
18 disaster or emergency remains in effect through the sixtieth day after the original
19 declaration, unless terminated or extended by a concurrent resolution of the
20 legislative assembly.

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

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

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

30 f. All executive orders or proclamations issued under this subsection must indicate
31 the nature of the disaster or emergency, the area or areas threatened, the

1 conditions ~~which~~that have brought ~~it~~the disaster or emergency about or which
2 make possible termination of the state of disaster or emergency. An executive
3 order or proclamation must be disseminated promptly by means calculated to
4 bring ~~it~~the order's contents to the attention of the general public, unless the
5 circumstances attendant upon the disaster or emergency prevent or impede such
6 dissemination, and ~~it~~the order must be ~~promptly~~ filed promptly with the
7 department of emergency services, the legislative council, the secretary of state,
8 and the county or city auditor of the jurisdictions affected.

- 9 4. An executive order or proclamation of a state of disaster or emergency shall activate
10 the state and local operational plans applicable to the political subdivision or area in
11 question and be authority for the deployment and use of any forces to which the plan
12 or plans apply and for use or distribution of any supplies, equipment, and materials
13 and facilities assembled, stockpiled, or arranged to be made available pursuant to this
14 chapter or any other provision of law relating to a disaster or emergency.
- 15 5. During the continuance of any state of disaster or emergency declared by the
16 governor, the governor is commander in chief of the emergency management
17 organization and of all other forces available for emergency duty. To the greatest
18 extent practicable, the governor shall delegate or assign command authority by prior
19 arrangement embodied in appropriate executive orders or emergency operational
20 plans, but nothing herein restricts the governor's authority to do so by orders issued at
21 the time of the disaster or emergency.
- 22 6. In addition to any other powers conferred upon the governor by law, the governor may:
- 23 a. Suspend the provisions of any regulatory statute prescribing the procedures for
24 conduct of state business, or the orders, rules, or regulations of any state agency,
25 if strict compliance with the provisions of any statute, order, rule, or regulation
26 would in any way prevent, hinder, or delay necessary action in managing a
27 disaster or emergency.
- 28 b. Utilize all available resources of the state government as reasonably necessary
29 to manage the disaster or emergency and of each political subdivision of the
30 state.

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

1 this subsection is effective only for the duration of the disaster or emergency and
2 recalled personnel will be released from state active duty upon competent authority
3 that the requirement of their service under this subsection has passed. Compensation
4 for personnel recalled under this subsection will be based upon section 37-07-05.

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

7 **Virtual session of the legislative assembly during emergency or disaster.**

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