

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 1091

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DATE
02/11/2019

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330 Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to emergency management; providing exemption from tax nexus and
1.3 certain business licensing and registration requirements for the presence of
1.4 out-of-state employees and critical infrastructure companies, including affiliates
1.5 of in-state critical infrastructure companies, that temporarily provide resources
1.6 and personnel in the state during a state of emergency; proposing coding for new
1.7 law in Minnesota Statutes, chapter 12.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. **[12.71] CITATION.**

1.10 Sections 12.71 to 12.75 may be cited as the "Facilitating Business Rapid Response to
1.11 Declared State Disaster Act."

1.12 **EFFECTIVE DATE.** This section is effective July 1, 2019.

1.13 Sec. 2. **[12.72] DEFINITIONS.**

1.14 Subdivision 1. **Terms.** For purposes of sections 12.71 to 12.75, the following terms have
1.15 the meanings given them.

1.16 Subd. 2. **Registered business in the state; registered business.** "Registered business
1.17 in the state" or "registered business" means a business entity that is authorized to do business
1.18 in the state prior to the declared state disaster or emergency.

1.19 Subd. 3. **Out-of-state business.** (a) "Out-of-state business" means a business entity that:

1.20 (1) except for prior or current disaster or emergency-related work, has no presence in
1.21 the state and conducts no business in the state;

2.1 (2) has no requirement to register, file, or remit state or local taxes other than for disaster-
2.2 or emergency-related work during the tax year immediately preceding the tax year of declared
2.3 state disaster or emergency; and

2.4 (3) whose services are requested by a registered business, or by the federal government
2.5 or a state or local government, for purposes of performing disaster- or emergency-related
2.6 work in the state.

2.7 (b) Out-of-state business includes a business entity that is affiliated with the registered
2.8 business in the state solely through common ownership.

2.9 Subd. 4. **Out-of-state employee.** "Out-of-state employee" means an employee who does
2.10 not work in the state, except for disaster- or emergency-related work during the disaster
2.11 response period.

2.12 Subd. 5. **Critical infrastructure.** "Critical infrastructure" means property and equipment
2.13 owned or used by telecommunications, communications, Internet access, or video and
2.14 direct-to-home satellite television programming service facilities or networks; electric
2.15 generation, transmission, and distribution systems; gas distribution systems; water pipelines;
2.16 and related support facilities that service multiple customers or citizens including but not
2.17 limited to real and personal property such as buildings, offices, lines, poles, pipes, structures,
2.18 and equipment.

2.19 Subd. 6. **Declared state disaster or emergency.** "Declared state disaster or emergency"
2.20 means:

2.21 (1) a disaster or emergency event for which a governor's state of emergency proclamation
2.22 has been issued under section 12.31;

2.23 (2) a local emergency within the state declared by a local official as specified under
2.24 section 12.29;

2.25 (3) a disaster or emergency event for which a presidential declaration of a federal major
2.26 disaster or emergency has been issued; or

2.27 (4) other imminent disaster or emergency event within the state for which a good faith
2.28 response effort is required, and for which another authorized official of the state is given
2.29 notification from the registered business and such official designates such event as a disaster
2.30 or emergency thereby invoking the provisions of sections 12.71 to 12.75.

2.31 Subd. 7. **Disaster response period.** "Disaster response period" means a period that
2.32 begins ten days prior to the first day of a declared state disaster or emergency and that

3.1 extends 60 days after the conclusion of a declared state disaster or emergency, or any longer
3.2 period so authorized in section 12.31 by the governor.

3.3 Subd. 8. **Disaster- or emergency-related work.** "Disaster- or emergency-related work"
3.4 means repairing, renovating, installing, building, rendering services, or other business
3.5 activities that relate to critical infrastructure that has been damaged, impaired, or destroyed
3.6 by the declared state disaster or emergency.

3.7 **EFFECTIVE DATE.** This section is effective July 1, 2019.

3.8 Sec. 3. **[12.73] OBLIGATIONS DURING DISASTER RESPONSE PERIOD.**

3.9 Subdivision 1. **Business and employee status during disaster response period.** (a)
3.10 An out-of-state business shall not be considered to have established a level of presence that
3.11 would require the business to register, file, or remit state or local taxes, or that would require
3.12 the business or its out-of-state employees to be subject to any state certification, licensing,
3.13 or registration requirements. This includes any and all state or local business certification,
3.14 licensing, or registration requirements or state and local taxes or fees including but not
3.15 limited to unemployment insurance, state or local occupational licensing fees, sales and use
3.16 tax, or ad valorem tax on equipment brought into the state temporarily for use during the
3.17 disaster response period and subsequently removed from the state, public utility commission
3.18 or secretary of state certification, and licensing and regulatory requirements.

3.19 (b) All activity of the out-of-state business that is conducted in this state pursuant to
3.20 sections 12.71 to 12.75 is disregarded with respect to:

3.21 (1) the allocation and apportionment of income under sections 290.17 and 290.191; and

3.22 (2) any filing requirements for unitary businesses, as defined in section 290.17,
3.23 subdivision 4, as required under sections 290.17 and 290.34, subdivision 2, or Minnesota
3.24 Rules, part 8019.0405, subpart 1.

3.25 (c) Presence in this state by an out-of-state employee is disregarded for purposes of
3.26 determining individual residency under section 290.01, subdivision 7, and employer
3.27 withholding tax requirements under section 290.92.

3.28 Subd. 2. **Transaction taxes and fees.** Out-of-state businesses and out-of-state employees
3.29 must pay transaction taxes and fees including but not limited to fuel taxes, state and local
3.30 sales taxes, hotel taxes, car rental taxes, or fees that apply to materials or services the
3.31 out-of-state business or out-of-state employee purchases for use or consumption in the state
3.32 during the disaster response period, unless the out-of-state business or out-of-state employee
3.33 is otherwise exempt from tax under sections 12.71 to 12.75.

4.1 **EFFECTIVE DATE.** This section is effective July 1, 2019.

4.2 Sec. 4. **[12.74] BUSINESS OR EMPLOYEE ACTIVITY AFTER DISASTER**
4.3 **RESPONSE PERIOD.**

4.4 An out-of-state business or out-of-state employee that remains in the state after the
4.5 disaster response period is subject to the state's normal standards for establishing presence,
4.6 residency, or doing business in the state and will therefore become responsible for any
4.7 business or tax requirements that ensue.

4.8 **EFFECTIVE DATE.** This section is effective July 1, 2019.

4.9 Sec. 5. **[12.75] ADMINISTRATION.**

4.10 Subdivision 1. **Notification of out-of-state business during disaster response**
4.11 **period.** (a) An out-of-state business that enters the state shall, upon request, provide to the
4.12 secretary of state a statement that it is in the state for purposes of responding to the disaster
4.13 or emergency. The statement must include the business name, state of domicile, principal
4.14 business address, federal tax identification number, date of entry, and contact information.

4.15 (b) A registered business in the state shall, upon request, provide the information required
4.16 in paragraph (a) for any affiliate that enters the state that is an out-of-state business. The
4.17 notification shall also include contact information for the registered business in the state.

4.18 Subd. 2. **Notification of intent to remain in state.** An out-of-state business or an
4.19 out-of-state employee that remains in the state after the disaster response period is subject
4.20 to state and local registration, licensing, and filing requirements that ensue as a result of
4.21 establishing a business presence or residency in the state applicable under state law.

4.22 Subd. 3. **Rulemaking forms; records.** The secretary of state shall: (1) promulgate
4.23 necessary rules; (2) develop and issue forms or online processes; and (3) maintain and make
4.24 available an annual record of any designations required under sections 12.71 to 12.75 to
4.25 carry out these administrative procedures.

4.26 **EFFECTIVE DATE.** This section is effective July 1, 2019.