

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 16

BY STATE AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO THE STATE DISASTER PREPAREDNESS ACT; AMENDING SECTION 46-1008,
3 IDAHO CODE, TO REVISE PROVISIONS REGARDING THE GOVERNOR'S POWERS DURING
4 A DISASTER EMERGENCY, TO PROVIDE THAT THE GOVERNOR MAY NOT ALTER, AD-
5 JUST, OR SUSPEND ANY PROVISION OF THE IDAHO CODE, TO PROVIDE SEVERABIL-
6 ITY, AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 46-1008, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 46-1008. THE GOVERNOR AND DISASTER EMERGENCIES. (1) Under this act,
11 the governor may issue executive orders, or proclamations and amend or re-
12 scind them if he finds a disaster has occurred or that the occurrence or the
13 threat thereof is imminent. Executive orders and proclamations have the
14 force and effect of law; provided, however, that the orders or proclamations
15 must be essential to protect life or property from the occurrence or imminent
16 threat of the state of disaster emergency. Such orders and proclamations
17 must not restrict the right of Idahoans to work, provide for their families,
18 and otherwise contribute to the economy of Idaho.

19 (2) (a) A state of disaster emergency shall ~~shall~~ must be declared by execu-
20 tive order or proclamation of the governor ~~if he finds a disaster has~~
21 ~~occurred or that the occurrence or the threat thereof is imminent.~~ The
22 state of disaster emergency ~~shall continue until the~~ must terminate as
23 soon as:

24 (i) The governor finds that the threat or danger has passed, ~~or~~
25 that the disaster has been dealt with to the extent that emergency
26 conditions no longer exist, ~~and when either or both of these events~~
27 ~~occur;~~

28 (ii) The period for which the state of disaster emergency has been
29 declared terminates; or

30 (iii) The legislature terminates the state of disaster emergency
31 prior to the end of the period for which it was declared as provided
32 in paragraph (c) of this subsection.

33 When any of these termination events occur, any executive orders or
34 proclamations issued by the governor shall terminate under the author-
35 ity of this subsection are simultaneously terminated, and the governor
36 must immediately issue a written notice that the state of disaster emer-
37 gency by has terminated and that the orders or proclamations issued by
38 the governor have also terminated. The notice must immediately be filed
39 and disseminated in the same manner as the executive order or procla-
40 mation; provided, however, that no was filed and disseminated under
41 paragraph (d) of this subsection.

1 (b) In no event shall the declared state of disaster emergency may
 2 continue for longer than exceed thirty (30) days unless the governor
 3 finds that it should be continued for another thirty (30) days or any
 4 part thereof. The legislature by concurrent resolution may terminate a
 5 legislature by concurrent resolution extends the duration of the state
 6 of disaster emergency. The governor may not circumvent the thirty (30)
 7 day limitation by redeclaring successive states of disaster emergency
 8 in the absence of an extension by the legislature.

9 (c) If the legislature is in a regular or extraordinary session during
 10 any state of disaster emergency at any time. Thereupon, the governor
 11 shall issue an executive order or proclamation ending the state of dis-
 12 aster emergency., the legislature may consider legislation to respond
 13 to the disaster emergency, including appropriating necessary emergency
 14 funds. The legislature may modify, terminate, or extend the state of
 15 disaster emergency by concurrent resolution. The concurrent resolu-
 16 tion may impose conditions for the modification, termination, or ex-
 17 ension, and the governor, state agencies, governmental entities, and
 18 political subdivisions must abide by the terms of the concurrent reso-
 19 lution. The legislature may extend the state of disaster emergency for
 20 any number of days.

21 (d) All executive orders or proclamations issued under this subsection
 22 shall indicate the nature of the disaster, the area or areas threatened,
 23 the area subject to the proclamation, and the conditions which are caus-
 24 ing the disaster. An executive order or proclamation shall be dissem-
 25 inated promptly by means calculated to bring its contents to the atten-
 26 tion of the general public and, unless the circumstances attendant upon
 27 the disaster prevent or impede, be promptly filed with the Idaho office
 28 of emergency management, the office of the secretary of state, and the
 29 office of the recorder of each county where the state of disaster emer-
 30 gency applies.

31 (3) An executive order or proclamation of a state of disaster emergency
 32 shall activate the disaster response and recovery aspects of the state, lo-
 33 cal, and intergovernmental disaster emergency plans applicable to the po-
 34 litical subdivision or area in question and be authority for the deployment
 35 and use of any national guard forces to which the plan or plans apply and for
 36 use or distribution of any supplies, equipment, and materials and facilities
 37 assembled, stockpiled, or arranged to be made available pursuant to this act
 38 or any other provision of law relating to disaster emergencies.

39 (4) During the continuance of any state of disaster emergency, the
 40 governor is commander-in-chief of the militia and may assume command of all
 41 ~~other~~ national guard forces available for emergency duty. To the greatest
 42 extent practicable, the governor shall delegate or assign command au-
 43 thority by prior arrangement embodied in appropriate executive orders or
 44 ~~regulations~~ rules, but nothing herein restricts his authority to do so by
 45 orders issued at the time of the disaster emergency.

46 (5) ~~In addition to any other powers conferred upon~~ If essential to pro-
 47 tect the life or property of the people of Idaho, the governor by law, he may:

48 (a) Suspend the provisions of any ~~regulations~~ rules prescribing the
 49 procedures for conduct of public business that would in any way prevent,
 50 hinder, or delay necessary action in coping with the emergency;

1 (b) Utilize all state and federal resources of available to the state,
 2 including, but not limited to, those sums in the disaster emergency
 3 account as he shall deem necessary to pay obligations and expenses
 4 ~~incurred during~~ arising out of a declared state of disaster emergency,
 5 subject to the one percent (1%) limitation on the revenues made avail-
 6 able by section 46-1005A(2) (b) and (c), Idaho Code, as set forth in
 7 section 46-1005A(3), Idaho Code;

8 (c) Transfer the direction, personnel, or functions of state depart-
 9 ments and agencies or units thereof for the purpose of performing or fa-
 10 cilitating emergency services;

11 (d) Subject to any applicable requirements for compensation under sec-
 12 tion 46-1012, Idaho Code, commandeer or utilize any private property,
 13 real or personal, if he finds this necessary to cope with the disaster
 14 emergency;

15 (e) Direct and compel the evacuation of all or part of the population
 16 from any stricken or threatened area within the state if he deems this
 17 action necessary for the preservation of life or other disaster mitiga-
 18 tion, response, or recovery;

19 (f) Prescribe routes, and modes of transportation, and recommend des-
 20 tinations in connection with evacuation;

21 (g) Control ingress and egress to and from a disaster area, the movement
 22 of persons within the area, and the occupancy of premises therein;

23 (h) Suspend or limit the sale, dispensing or transportation of alco-
 24 holic beverages, explosives except to the extent protected under sub-
 25 section (7) of this section in relation to firearms or ammunition, and
 26 combustibles; and

27 (i) Make provision for the availability and use of temporary emergency
 28 housing.

29 (6) Whenever an emergency or a disaster has been declared to exist in
 30 Idaho by the ~~p~~President of the United States under the provisions of the dis-
 31 aster relief act of 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the
 32 governor may:

33 (a) Enter into agreements with the federal government for the sharing
 34 of disaster recovery expenses involving public facilities;

35 (b) Require as a condition of state assistance that a local taxing dis-
 36 trict be responsible for paying forty percent (40%) of the nonfederal
 37 share of costs incurred by the local taxing district that have been de-
 38 termined to be eligible for reimbursement by the federal government,
 39 provided that the total local share of eligible costs for a taxing dis-
 40 trict shall not exceed ten percent (10%) of the taxing district's tax
 41 charges authorized by section 63-802, Idaho Code;

42 (c) Obligate the state to pay the balance of the nonfederal share of el-
 43 igible costs within local taxing entities qualifying for federal assis-
 44 tance; and

45 (d) Enter into agreements with the federal government for the sharing
 46 of disaster assistance expenses to include individual and family grant
 47 programs.

48 (7) During the continuance of any declared state of disaster emergency,
 49 neither the governor nor any agency of any governmental entity or political
 50 subdivision of the state shall impose or enforce any additional restrictions

1 on the lawful manufacturing, possession, transfer, sale, transport, stor-
2 age, display or use of firearms or ammunition or otherwise limit or suspend
3 any rights guaranteed by the United States constitution or constitution of
4 the state of Idaho, including but not limited to the right to peaceable as-
5 sembly or free exercise of religion.

6 (8) During any state of disaster emergency, the governor may not alter,
7 adjust, or suspend any provision of the Idaho Code.

8 (9) The provisions of this section are hereby declared to be severable.
9 If any provision of this section or the application of such provision to any
10 person or circumstance is declared invalid by a court of competent jurisdic-
11 tion, such declaration shall not affect the validity of the remaining por-
12 tions of this section.

13 SECTION 2. An emergency existing therefor, which emergency is hereby
14 declared to exist, this act shall be in full force and effect on and after its
15 passage and approval.