

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 392

BY WAYS AND MEANS COMMITTEE

AN ACT

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

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, proclamations and amend or rescind
12 them. Executive orders and proclamations have the force and effect of law.

13 (2) A disaster emergency shall be declared by executive order or
14 proclamation of the governor if he finds a disaster has occurred or that the
15 occurrence or the threat thereof is imminent. The state of disaster emer-
16 gency shall continue until the governor finds that the threat or danger has
17 passed, or the disaster has been dealt with to the extent that emergency con-
18 ditions no longer exist, and when either or both of these events occur, the
19 governor shall terminate the state of disaster emergency by executive order
20 or proclamation; provided, however, that no state of disaster emergency may
21 continue for longer than thirty (30) days unless the governor finds that it
22 should be continued for another thirty (30) days or any part thereof. The
23 legislature by concurrent resolution may terminate a state of disaster emer-
24 gency at any time. Thereupon, the governor shall issue an executive order or
25 proclamation ending the state of disaster emergency. All executive orders
26 or proclamations issued under this subsection shall indicate the nature of
27 the disaster, the area or areas threatened, the area subject to the proclama-
28 tion, and the conditions which are causing the disaster. An executive order
29 or proclamation shall be disseminated promptly by means calculated to bring
30 its contents to the attention of the general public and unless the circum-
31 stances attendant upon the disaster prevent or impede, be promptly filed
32 with the Idaho office of emergency management, the office of the secretary
33 of state and the office of the recorder of each county where the state of
34 disaster emergency applies.

35 (3) An executive order or proclamation of a state of disaster emergency
36 shall activate the disaster response and recovery aspects of the state, lo-
37 cal and intergovernmental disaster emergency plans applicable to the polit-
38 ical subdivision or area in question and be authority for the deployment and
39 use of any forces to which the plan or plans apply and for use or distribution
40 of any supplies, equipment, and materials and facilities assembled, stock-
41 piled, or arranged to be made available pursuant to this act or any other pro-
42 vision of law relating to disaster emergencies.

1 (4) During the continuance of any state of disaster emergency, the
2 governor is commander-in-chief of the militia and may assume command of all
3 other forces available for emergency duty. To the greatest extent prac-
4 ticable, the governor shall delegate or assign command authority by prior
5 arrangement embodied in appropriate executive orders or ~~regulations~~ rules,
6 but nothing herein restricts his authority to do so by orders issued at the
7 time of the disaster emergency.

8 (5) In addition to any other powers conferred upon the governor by law,
9 he may:

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

13 (b) Utilize all resources of the state, including, but not limited to,
14 those sums in the disaster emergency account as he shall deem necessary
15 to pay obligations and expenses incurred during a declared state of dis-
16 aster emergency;

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

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

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

28 (f) Prescribe routes, modes of transportation, and destinations in
29 connection with evacuation;

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

32 (h) Suspend or limit the sale, dispensing or transportation of alco-
33 holic beverages, explosives, and combustibles;

34 (i) Make provision for the availability and use of temporary emergency
35 housing.

36 (6) Whenever an emergency or a disaster has been declared to exist in
37 Idaho by the president under the provisions of the disaster relief act of
38 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the governor may:

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

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

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

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

4 (7) During the continuance of any state of disaster emergency, neither
5 the governor nor any agency of any governmental entity or political subdivi-
6 sion of the state shall impose restrictions on the lawful possession, trans-
7 fer, sale, transport, storage, display or use of firearms or ammunition.

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

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