

Enrolled
House Bill 2566

Sponsored by Representatives WILLIAMSON, DAVIS (Pre-session filed.)

CHAPTER

AN ACT

Relating to residency thresholds for businesses performing emergency services; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Legislative Assembly finds that:

(1) During times of storm, flood, fire, earthquake, hurricane or other disaster or emergency, many businesses bring resources, property and personnel from other states throughout the United States into Oregon on a temporary basis to expedite the often enormous and overwhelming task of cleaning up, restoring and repairing damaged buildings, equipment and property or deploying or building replacement facilities in this state.

(2) This may involve the need for out-of-state businesses, including out of-state affiliates of businesses based in this state, to bring in resources, property or personnel that previously have had no connection to this state, to perform activities in this state including repairing, renovating, installing, building, rendering services or performing other business activities and for which personnel may be located in this state for extended periods of time to perform these activities.

(3) While operating in this state on a temporary basis solely for purposes of helping this state recover from a disaster or emergency, these businesses and individual employees should not be burdened by any requirements for business and employee taxes as a result of activities in this state for a temporary period.

(4) This state's nexus and residency thresholds are intended for businesses and individuals that are in this state as part of the conduct of regular business operations or that intend to reside in this state and are not directed at businesses and individuals coming into this state on a temporary basis to provide assistance in response to a declared state of emergency or declared major disaster.

(5) To ensure that businesses may focus on quick response to the needs of this state and its residents during a declared disaster or emergency, it is appropriate for the Legislative Assembly to deem that this activity for a reasonable period of time before, during and after the disaster or emergency for repairing and restoration of the often devastating damage to critical infrastructure in this state as defined in section 3 of this 2015 Act does not establish presence, residency, doing business in this state or any other criteria for purposes of state and local taxes or licensing and regulatory requirements.

SECTION 2. Sections 3 to 5 of this 2015 Act are added to and made a part of ORS chapter 401.

SECTION 3. As used in sections 3 to 5 of this 2015 Act:

(1) "Critical infrastructure" means property and equipment owned or used by communications networks, electric generation, transmission and distribution systems, gas distribution systems, water pipelines and related support facilities that service multiple customers or citizens, including real and personal property such as buildings, offices, lines, poles, pipes, structures and equipment.

(2) "Declared disaster or emergency" means a major disaster or emergency declared to exist in this state by the President of the United States or a state of emergency declared by the Governor as provided in ORS 401.165.

(3) "Disaster or emergency related work" means repairing, renovating, installing, building or rendering other services to critical infrastructure that has been damaged, impaired or destroyed as a direct result of a declared disaster or emergency.

(4) "Disaster response period" means a period that begins 10 days prior to the date that the Governor declares a state of emergency, or the date that the President of the United States declares an emergency or major disaster, whichever occurs first, and that extends 60 calendar days after the date of the termination of the declared disaster or emergency, or any longer period authorized by the Governor.

(5) "Out-of-state business" means a foreign business entity that, except for disaster or emergency related work, transacts no business in this state and the services of which are requested by a registered business or by a state or local government entity for purposes of performing disaster or emergency related work in this state.

(6) "Out-of-state employee" means an individual who prior to the declared disaster or emergency resides outside this state and performs no work in this state, except for disaster or emergency related work performed during the disaster response period.

(7) "Registered business" means a business entity that is registered with or authorized by the Secretary of State to transact business in this state as of the date immediately prior to the declared disaster or emergency.

SECTION 4. (1) Disaster or emergency related work conducted by an out-of-state business may not be used as the sole basis for:

(a) Notwithstanding ORS 317.018 and 317.080, a finding that the out-of-state business is doing business in this state;

(b) Imposition of the taxes imposed under ORS 314.725 or ORS chapter 316 or 317;

(c) Notwithstanding ORS 60.704, 63.704, 65.704, 67.705 and 70.355, a requirement that the out-of-state business register with or obtain authority to transact business from the Secretary of State during the disaster response period; or

(d) A requirement that the out-of-state business or an out-of-state employee comply with state or local business or professional licensing or registration requirements or state and local taxes or fees including unemployment insurance, state or local occupational licensing fees and ad valorem tax on equipment brought into this state for use during the disaster response period and subsequently removed from this state.

(2) For purposes of any state or local tax on or measured by, in whole or in part, net or gross income or receipts, all activity of the out-of-state business that is conducted in this state, or equipment brought into this state, pursuant to sections 3 to 5 of this 2015 Act shall be disregarded with respect to the filing requirements of ORS 317.710 and 317.715 and the apportionment provisions of ORS 314.605 to 314.675. Receipts from disaster or emergency related work may not be sourced to and may not otherwise impact or increase the amount of income, revenue or receipts apportioned to this state.

(3) For purposes of ORS chapter 316, an out-of-state employee is not taxed as a resident, nonresident or part-year resident and is not considered to have established domicile or residence in this state. Wages paid for disaster or emergency related work are not subject to the withholding provisions of ORS 316.162 to 316.221.

(4) Out-of-state businesses and out-of-state employees shall be required to pay transaction taxes and fees including fuel taxes, transient lodging taxes, car rental taxes or appli-

cable fees during the disaster response period, unless an exemption applies to the taxes or fees during the disaster response period.

(5) Any out-of-state business that transacts business in this state or out-of-state employee who remains in this state after the end of the disaster response period will become subject to this state's normal standards for establishing domicile or residency or doing business in this state and will become responsible for any business or employee tax requirements that ensue.

(6) ORS 401.990 does not apply to sections 3 to 5 of this 2015 Act.

SECTION 5. (1) A registered business that requests services of an out-of-state business that enters this state pursuant to sections 3 to 5 of this 2015 Act shall provide to the Oregon Department of Administrative Services a statement that the out-of-state business entered or remained in this state for purposes of responding to a disaster or emergency. The registered business shall provide the statement within 30 days of any out-of-state business entering this state. The statement must include the name, state of domicile, principal business address, federal tax identification number, date of entry and contact information of the out-of-state business.

(2) An out-of-state business that, or an out-of-state employee who, remains in this state after the disaster response period has ended shall complete state and local registration, licensing and filing requirements that ensue as a result of establishing the requisite business presence, domicile or residency in this state applicable under the existing rules.

(3) The department shall provide to any state agency, upon request, information acquired by the department under this section.

SECTION 6. Sections 3 to 5 of this 2015 Act apply to disaster response periods beginning on or after the effective date of this 2015 Act.

SECTION 7. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

Passed by House May 20, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 8, 2015

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2015

Approved:

.....M.,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2015

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Jeanne P. Atkins, Secretary of State