

House Bill 2566

Sponsored by Representatives WILLIAMSON, DAVIS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that disaster or emergency related work conducted by out-of-state business may not be used as sole basis for determination that business is doing business in state, or that employee has residency or domicile in state. Provides exemptions from obligations including registration with Secretary of State and filing and payment of taxes.

Applies to disaster response periods beginning on or after effective date of Act.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to residency thresholds for businesses performing emergency services; and prescribing an
3 effective date.

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

5 **SECTION 1. The Legislative Assembly finds that:**

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

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

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

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

26 (5) **To ensure that businesses may focus on quick response to the needs of this state and**
27 **its residents during a declared disaster or emergency, it is appropriate for the Legislative**
28 **Assembly to deem that this activity for a reasonable period of time before, during and after**
29 **the disaster or emergency for repairing and restoration of the often devastating damage to**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 critical infrastructure in this state as defined in section 3 of this 2015 Act does not establish
 2 presence, residency, doing business in this state or any other criteria for purposes of state
 3 and local taxes or licensing and regulatory requirements.

4 **SECTION 2.** Sections 3 to 6 of this 2015 Act are added to and made a part of ORS chapter
 5 401.

6 **SECTION 3.** As used in sections 3 to 6 of this 2015 Act:

7 (1) “Critical infrastructure” means property and equipment owned or used by communi-
 8 cations networks, electric generation, transmission and distribution systems, gas distrib-
 9 ution systems, water pipelines and related support facilities that service multiple customers
 10 or citizens, including real and personal property such as buildings, offices, lines, poles, pipes,
 11 structures and equipment.

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

15 (3) “Disaster or emergency related work” means repairing, renovating, installing, build-
 16 ing or rendering other services to critical infrastructure that has been damaged, impaired
 17 or destroyed as a direct result of a declared disaster or emergency.

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

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

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

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

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

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

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

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

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

1 (2) For purposes of any state or local tax on or measured by, in whole or in part, net or
 2 gross income or receipts, all activity of the out-of-state business that is conducted in this
 3 state pursuant to sections 3 to 6 of this 2015 Act shall be disregarded with respect to the
 4 filing requirements of ORS 317.710 and 317.715 and the apportionment provisions of ORS
 5 314.605 to 314.675. Receipts from disaster or emergency related work may not be sourced to
 6 and may not otherwise impact or increase the amount of income, revenue or receipts ap-
 7 portioned to this state.

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

12 (4) Out-of-state businesses and out-of-state employees shall be required to pay trans-
 13 action taxes and fees including fuel taxes, transient lodging taxes, car rental taxes or appli-
 14 cable fees during the disaster response period, unless an exemption applies to the taxes or
 15 fees during the disaster response period.

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

21 **SECTION 5.** (1) An out-of-state business that enters this state shall, upon request, pro-
 22 vide to the Office of Emergency Management a statement that it is in this state for purposes
 23 of responding to the disaster or emergency. This statement must include the name, state of
 24 domicile, principal business address, federal tax identification number, date of entry and
 25 contact information of the out-of-state business.

26 (2) A registered business shall upon request provide to the office the information re-
 27 quired in subsection (1) of this section for any affiliate that enters this state that is an out-
 28 of-state business. The notification shall also include contact information for the registered
 29 business in this state.

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

34 **SECTION 6.** The Office of Emergency Management shall by rule establish policies and
 35 procedures for purposes of sections 3 to 6 of this 2015 Act and shall maintain and make
 36 available to the public an annual record of any designations of out-of-state businesses made
 37 pursuant to sections 3 to 6 of this 2015 Act.

38 **SECTION 7.** Sections 3 to 6 of this 2015 Act apply to disaster response periods beginning
 39 on or after the effective date of this 2015 Act.

40 **SECTION 8.** This 2015 Act takes effect on the 91st day after the date on which the 2015
 41 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.
 42