



SB-531 Local emergencies: districts. (2017-2018)

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Date Published: 08/23/2018 09:00 PM

ENROLLED AUGUST 23, 2018

PASSED IN SENATE AUGUST 21, 2018

PASSED IN ASSEMBLY AUGUST 20, 2018

AMENDED IN ASSEMBLY AUGUST 13, 2018

AMENDED IN ASSEMBLY JUNE 19, 2017

AMENDED IN SENATE MAY 16, 2017

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

SENATE BILL

NO. 531

Introduced by Senator Galgiani

February 16, 2017

An act to amend Sections 8557, 8558, 8610, 8611, 8616, 8625, 8630, 8634, 8657.5, and 8685.9 of the Government Code, relating to local emergencies.

LEGISLATIVE COUNSEL'S DIGEST

SB 531, Galgiani. Local emergencies: districts.

Existing law authorizes the governing body of a city, county, or city and county, or a designated official, to declare a local emergency, as defined, when specified conditions of disaster or extreme peril to the safety of persons and property exist within the territorial limits of a city, county, or city and county. Existing law establishes various types of districts charged with specified duties within the Harbors and Navigation Code, including harbor improvement districts, harbor districts, port districts, river port districts, and small craft harbor districts.

This bill would revise the definition of a local emergency to include conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a district established under the Harbors and Navigation Code and would authorize a port district to declare a local emergency on the same basis as a city, county, or city and county. The bill would also provide legislative findings in support of these provisions.

This bill would incorporate additional changes to Section 8558 of the Government Code proposed by SB 532 to be operative only if this bill and SB 532 are enacted and this bill is enacted last.

This bill would incorporate additional changes to Section 8630 of the Government Code proposed by AB 2898 to be operative only if this bill and AB 2898 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares a vast majority of public ports are departments of cities, counties, or cities and counties having a statutory right to proclaim a local emergency.

(b) The Legislature finds that several public ports are independent public agencies lacking the statutory power to proclaim a local emergency and therefore must rely on the prompt actions of unrelated third-party public agencies whenever a maritime-oriented local emergency condition exists.

(c) It is the intent of the Legislature to provide these independent public agencies with powers equal to the vast majority of ports that currently have the direct statutory power by and through their city, county, or city and county to proclaim an emergency.

SEC. 2. Section 8557 of the Government Code is amended to read:

8557. (a) "State agency" means any department, division, independent establishment, or agency of the executive branch of the state government.

(b) "Political subdivision" includes any city, city and county, county, district, or other local governmental agency or public agency authorized by law.

(c) "Governing body" means the legislative body, trustees, or directors of a political subdivision.

(d) "Chief executive" means that individual authorized by law to act for the governing body of a political subdivision.

(e) "Disaster council" and "disaster service worker" have the meaning prescribed in Chapter 1 (commencing with Section 3201) of Part 1 of Division 4 of the Labor Code.

(f) "Port district" means a special district formed under the Harbors and Navigation Code or formed under the Harbors and Navigation Code Appendix 1 that is not a department, division, or a subdivision of a city or county or a city and county, and which receives and exports commodities on oceangoing vessels that have a commercial capacity of 15,000 deadweight tonnage or more.

(g) "Public facility" means any facility of the state or a political subdivision, which facility is owned, operated, or maintained, or any combination thereof, through moneys derived by taxation or assessment.

(h) "Sudden and severe energy shortage" means a rapid, unforeseen shortage of energy, resulting from, but not limited to, events such as an embargo, sabotage, or natural disasters, and which has statewide, regional, or local impact.

SEC. 3. Section 8558 of the Government Code is amended to read:

8558. Three conditions or degrees of emergency are established by this chapter:

(a) "State of war emergency" means the condition which exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

(b) "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

(c) "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, city, or port district established under the Harbors and Navigation Code, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an

earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

SEC. 3.5. Section 8558 of the Government Code is amended to read:

8558. Three conditions or degrees of emergency are established by this chapter:

(a) "State of war emergency" means the condition that exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that such an enemy attack is probable or imminent.

(b) "State of emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

(c) "Local emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, city, or port district established under the Harbors and Navigation Code, caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

SEC. 4. Section 8610 of the Government Code is amended to read:

8610. Counties, cities and counties, cities, and port districts may create disaster councils by ordinance. A disaster council shall develop plans for meeting any condition constituting a local emergency or state of emergency, including, but not limited to, earthquakes, natural or manmade disasters specific to that jurisdiction, or state of war emergency; those plans shall provide for the effective mobilization of all of the resources within the political subdivision, both public and private. The disaster council shall supply a copy of any plans developed pursuant to this section to the Office of Emergency Services. The governing body of a county, city and county, city, or port district may, in the ordinance or by resolution adopted pursuant to the ordinance, provide for the organization, powers and duties, divisions, services, and staff of the emergency organization. The governing body of a county, city and county, city, or port district may, by ordinance or resolution, authorize public officers, employees, and registered volunteers to command the aid of citizens when necessary in the execution of their duties during a state of war emergency, a state of emergency, or a local emergency.

Counties, cities and counties, and cities may enact ordinances and resolutions and either establish rules and regulations or authorize disaster councils to recommend to the director of the local emergency organization rules and regulations for dealing with local emergencies that can be adequately dealt with locally; and further may act to carry out mutual aid on a voluntary basis and, to this end, may enter into agreements.

SEC. 5. Section 8611 of the Government Code is amended to read:

8611. Counties, cities and counties, cities, and port districts may provide for the calling of test exercises, either singularly or jointly, whenever, in the opinion of such political subdivisions, such test exercises are needed; provided, however, that with respect to any such test exercise no one shall have the power to command the assistance of any private citizen, and the failure of a citizen to obey any order or regulation pertaining to a test exercise shall not constitute a violation of any law.

SEC. 6. Section 8616 of the Government Code is amended to read:

8616. During any state of war emergency or state of emergency when the need arises for outside aid in any county, city and county, city, or port district, such aid shall be rendered in accordance with approved emergency plans.

It shall be the duty of public officials to cooperate to the fullest possible extent in carrying out such plans.

SEC. 7. Section 8625 of the Government Code is amended to read:

8625. The Governor is hereby empowered to proclaim a state of emergency in an area affected or likely to be affected thereby when:

(a) The governor finds that circumstances described in subdivision (b) of Section 8558 exist; and either

(b) The governor is requested to do so (1) in the case of a city by the mayor or chief executive, (2) in the case of a county by the chairman of the board of supervisors or the county administrative officer, (3) in the case of a port district by the chair of the board or the port administrative officer; or

(c) The governor finds that local authority is inadequate to cope with the emergency.

SEC. 8. Section 8630 of the Government Code is amended to read:

8630. (a) A local emergency may be proclaimed only by the governing body of a county, city and county, city, or port district or by an official designated by ordinance adopted by that governing body.

(b) Whenever a local emergency is proclaimed by an official designated by ordinance, the local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the governing body.

(c) The governing body shall review the need for continuing the local emergency at least once every 30 days until the governing body terminates the local emergency.

(d) The governing body shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant.

SEC. 8.5. Section 8630 of the Government Code is amended to read:

8630. (a) A local emergency may be proclaimed only by the governing body of a county, city and county, city, or port district or by an official designated by ordinance adopted by that governing body.

(b) Whenever a local emergency is proclaimed by an official designated by ordinance, the local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the governing body.

(c) The governing body shall review the need for continuing the local emergency at least once every 60 days until the governing body terminates the local emergency.

(d) The governing body shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant.

SEC. 9. Section 8634 of the Government Code is amended to read:

8634. During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice.

The authorization granted by this chapter to impose a curfew shall not be construed as restricting in any manner the existing authority of counties, cities, any city and county, or port district to impose pursuant to the police power a curfew for any other lawful purpose.

SEC. 10. Section 8657.5 of the Government Code is amended to read:

8657.5. (a) (1) A private business included on the statewide registry pursuant to Section 8588.2 that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during a declared state of war, state of emergency, or state of local emergency shall not be civilly liable for a death, injury, illness, or other damage to a person or property caused by the private business's donation of services, goods, labor, equipment, resources, or dispensaries or other facilities.

(2) A private business included on the statewide registry that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during an emergency medical services training program conducted by the Office of Emergency Services and a city, a county, a city and county, or port district shall not be civilly liable for damages alleged to have resulted from those training programs, as described in Section 1799.100 of the Health and Safety Code.

(b) (1) A nonprofit organization included on the statewide registry pursuant to Section 8588.2 that voluntarily and without expectation and receipt of compensation from victims of emergencies and disasters donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during a declared state of war, state of emergency, or state of local emergency shall not be civilly liable for a death, injury, illness, or other damage to a person or property caused by the nonprofit organization's donation of services, goods, labor, equipment, resources, or dispensaries or other facilities.

(2) A nonprofit organization included on the statewide registry that voluntarily and without expectation and receipt of compensation donates services, goods, labor, equipment, resources, or dispensaries or other facilities, in compliance with Section 8588.2, during an emergency medical services training program conducted by the Office of Emergency Services and a city, a county, a city and county, or port district, shall not be civilly liable for damages alleged to have resulted from those training programs, as described in Section 1799.100 of the Health and Safety Code.

(c) A private business or nonprofit organization that discriminates against a victim of an emergency or disaster based on a protected classification under federal or state law shall not be entitled to the protections in subdivision (a) or (b).

(d) This section shall not relieve a private business or nonprofit organization from liability caused by its grossly negligent act or omission, or willful or wanton misconduct.

SEC. 11. Section 8685.9 of the Government Code is amended to read:

8685.9. Notwithstanding any other provision of law, including Section 8686, for any eligible project, the state share shall not exceed 75 percent of total state eligible costs unless the local agency is located within a city, county, city and county, or port district that has adopted a local hazard mitigation plan in accordance with the federal Disaster Mitigation Act of 2000 (P.L. 106-390) as part of the safety element of its general plan adopted pursuant to subdivision (g) of Section 65302. In that situation, the Legislature may provide for a state share of local costs that exceeds 75 percent of total state eligible costs.

SEC. 12. (a) Section 3.5 of this bill incorporates amendments to Section 8558 of the Government Code proposed by both this bill and Senate Bill 532. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 8558 of the Government Code, and (3) this bill is enacted after Senate Bill 532, in which case Section 3 of this bill shall not become operative.

(b) Section 8.5 of this bill incorporates amendments to Section 8630 of the Government Code proposed by both this bill and Assembly Bill 2898. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 8630 of the Government Code, and (3) this bill is enacted after Assembly Bill 2898, in which case Section 8 of this bill shall not become operative.