

**SENATE BILL No. 109**

By Committee on Utilities

1-29

1 AN ACT concerning emergencies and disasters; creating the Kansas  
2 disaster utilities response act; department of revenue.

3  
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) For the purposes of this section:

6 (1) "Declared state disaster or emergency" means a disaster or  
7 emergency event declared by the governor pursuant to K.S.A. 48-924, and  
8 amendments thereto, a state or local disaster emergency declared by the  
9 chair of the board of county commissioners of any county or by the mayor  
10 or other principal executive officer of a city pursuant to K.S.A. 48-932,  
11 and amendments thereto, or a presidential declaration of a federal major  
12 disaster or emergency.

13 (2) "Disaster response period" means a period that begins 10 days  
14 prior to the first day of a declared state disaster or emergency and that  
15 extends for a period of 60 calendar days after the end of the declared  
16 disaster or emergency period or any longer period authorized by the  
17 governor.

18 (3) "Disaster or emergency-related work" means ***work in preparation***  
19 ***for a disaster and*** repairing, renovating, installing, building or rendering  
20 services or other business activities ~~that relate~~ ***on or related*** to critical  
21 infrastructure that has been damaged, impaired or destroyed by ~~the~~ ***any***  
22 declared state disaster or emergency.

23 (4) "Critical infrastructure" means property and equipment, or any  
24 related support facilities that service multiple customers or citizens,  
25 including, but not limited to, real and personal property such as buildings,  
26 offices, lines, poles, pipes, structures and equipment, that are owned or  
27 used by operators of:

28 (A) Telecommunications, cable or other communications networks;

29 (B) electric generation, transmission or distribution systems;

30 (C) natural gas and natural gas liquids gathering, processing, storage,  
31 transmission or distribution systems; or

32 (D) water pipelines.

33 (5) "Registered business" means a business entity that, prior to ~~the~~  
34 ***any*** declared state disaster or emergency and work related thereto, is  
35 registered with the secretary of state, in good standing and authorized to do  
36 business in the state.

1 (6) "Out-of-state business" means a business entity that, prior to ~~the~~  
2 **any** declared state disaster or emergency and work related thereto:

3 (A) Has no presence, registrations or tax filings in the state and  
4 conducts no business in the state **except for disaster or emergency-related**  
5 **work during any disaster response period**; and

6 (B) is requested by a registered business, state agency, county or city  
7 disaster agency established pursuant to K.S.A. 48-929, and amendments  
8 thereto, or interjurisdictional disaster agency established pursuant to  
9 K.S.A. 48-930, and amendments thereto, to provide disaster or emergency-  
10 related work in the state **during any disaster response period**.—~~This An~~  
11 **"out-of-state business"** shall also include a business entity affiliated with  
12 a registered business solely through common ownership.

13 (7) "Out-of-state employee" means an individual who does not work  
14 in the state, except for disaster or emergency-related work during ~~the~~ **any**  
15 disaster response period.

16 (8) "State agency" shall have the meaning ascribed to such term in  
17 K.S.A. 75-3701, and amendments thereto.

18 (b) (1) An out-of-state business that conducts operations within the  
19 state for purposes of performing disaster or emergency-related work  
20 during ~~the~~ **any** disaster **response** period shall not be considered to have  
21 established a level of presence, **as a result of such disaster or emergency-**  
22 **related work**, that would require that business to register, file or remit state  
23 or local taxes or that would require that business or such business' out-of-  
24 state employees to be subject to any state licensing or registration  
25 requirements, including:

26 (A) Any and all state or local business licensing or registration  
27 requirements;

28 (B) state or local taxes or fees including, but not limited to, state  
29 income and employer withholding taxes, unemployment insurance, state or  
30 local occupational licensing fees, sales and use tax or ad valorem tax on  
31 equipment used or consumed during ~~the~~ **any** disaster response period; and

32 (C) licensing and regulatory requirements of the state corporation  
33 commission or the secretary of state.

34 (2) For purposes of any state or local tax on or measured by, in whole  
35 or in part, net or gross income or receipts, all ~~activity~~ **disaster or**  
36 **emergency-related work** of the out-of-state business that is conducted in  
37 this state pursuant to this section shall be disregarded with respect to any  
38 filing requirements for such tax, including the filing required for a unitary  
39 or combined group of which the out-of-state business may be a part. For  
40 the purpose of apportioning income, revenue or receipts, the performance  
41 by an out-of-state business of any work in accordance with this section  
42 shall not be sourced to or shall not otherwise impact or increase the  
43 amount of income, revenue or receipts apportioned to this state.

1 (3) Any out-of-state employee shall not be considered to have  
2 established residency or a presence in the state that would require the  
3 employee or the employee's employer to file and pay state income taxes or  
4 to be subjected to tax withholdings or to file and pay any other state or  
5 local tax or fee during ~~the~~ **any** disaster response period. This includes any  
6 related state or local employer withholding and remittance obligations.

7 (c) Out-of-state businesses and out-of-state employees shall pay  
8 transaction taxes and fees, including, but not limited to, fuel taxes or sales  
9 or use taxes, on tangible personal property, materials or services,  
10 consumed or used in the state subject to sales or use taxes, hotel taxes, car  
11 rental taxes or fees that the out-of-state business or out-of-state employee  
12 purchases for use or consumption in the state during ~~the~~ **any** disaster  
13 response period, unless such taxes are otherwise exempted during ~~a~~ **such**  
14 disaster response period.

15 (d) Any out-of-state business or out-of-state employee that remains in  
16 the state after ~~the~~ **any** disaster response period will become subject to the  
17 state's normal standards for establishing presence, residency or doing  
18 business in the state and will be responsible for any business or employee  
19 tax requirements or obligations thereafter.

20 (e) (1) Any out-of-state business that enters the state shall, upon  
21 request, provide to the department of revenue a written statement that ~~it~~  
22 **such out-of-state business** is in the state for purposes of responding to a  
23 declared state disaster or emergency. Such statement shall include the out-  
24 of-state business' name, state of domicile, principal business address,  
25 federal tax identification number, date of entry and contact information.

26 (2) A registered business shall, upon request, provide the department  
27 of revenue the information required in this subsection for any affiliate that  
28 enters the state that is an out-of-state business. The notification shall also  
29 include contact information for the registered business.

30 (3) Any out-of-state business or out-of-state employee that remains in  
31 the state after ~~the~~ **any** disaster response period shall complete and comply  
32 with all state and local registration, licensing and filing requirements that  
33 ensue as a result of establishing the requisite business presence or  
34 residency in the state applicable under the existing rules.

35 (4) The department of revenue shall maintain an annual record of all  
36 declared state disasters and emergencies pursuant to this section and may  
37 promulgate any rules and regulations necessary to effectuate the provisions  
38 of this section.

39 ***(f) No provision of this act shall be interpreted to exempt any***  
40 ***person from the requirements of K.S.A. 2014 Supp. 50-6,121 through***  
41 ***50-6,138, and amendments thereto.***

42 Sec. 2. This act shall take effect and be in force from and after its  
43 publication in the statute book.