

BILL ANALYSIS

H.B. 2358
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Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Rapid response and the restoration of critical infrastructure following a natural disaster or similar emergency in Texas often involve out-of-state businesses and agencies, but the fact that each state has its own tax system, business registration, and occupational licensing requirements often creates unnecessary obstacles during times when swift, efficient, and coordinated efforts are required. The National Conference of State Legislatures has created model legislation to ensure that any one state's tax and regulatory policies do not unnecessarily delay or impede out-of-state disaster recovery assistance. H.B. 2358 seeks to implement a version of this model legislation to ensure that out-of-state businesses are able to efficiently assist Texans in times of need.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2358 amends the Business & Commerce Code to establish that an out-of-state business entity whose transaction of business in Texas is limited to the performance of disaster-related or emergency-related work during a disaster response period is not required to register with the secretary of state; file a tax report with or pay taxes or fees to the state or a political subdivision of the state; pay a property tax or use tax on equipment that is brought into Texas by the entity, used only by the entity to perform disaster-related or emergency-related work during the disaster response period, and removed from Texas by the entity following the disaster response period; comply with any state or local business licensing or registration requirements; or comply with any state or local occupational licensing requirements or related fees. The bill establishes that an out-of-state employee whose only employment in Texas is for the performance of disaster-related or emergency-related work during a disaster response period is not required to file a tax report with or pay taxes or fees to the state or a political subdivision of the state or comply with any state or local occupational licensing requirements or related fees.

H.B. 2358 subjects such an out-of-state business entity or out-of-state employee to a transaction tax or fee that is imposed in Texas unless the entity or employee is otherwise exempt from the tax or fee. The bill requires an out-of-state business entity, if requested by the secretary of state, to provide to the secretary of state a statement that the entity came to Texas for the purpose of performing disaster-related or emergency-related work during a disaster response period and sets out specified information required to be included in the statement. The bill requires an in-state business entity, if requested by the secretary of state, to provide to the secretary of state, along

with the in-state business entity's contact information, that same specified information for any affiliate of the in-state business entity that entered Texas as an out-of-state business entity. The bill requires the secretary of state to keep records of and make available to the public any such statements or information provided to the secretary of state.

H.B. 2358 does not entitle an out-of-state business entity or out-of-state employee who remains in Texas after a disaster response period to any exemptions from obligations provided by the bill's provisions. The bill requires the secretary of state to adopt regulations, including developing any necessary forms or processes, to implement the bill's provisions. The bill defines "critical infrastructure," "declared state disaster or emergency," "disaster- or emergency-related work," "disaster response period," "in-state business entity," "out-of-state business entity," and "out-of-state employee" for the purposes of the bill's provisions.

H.B. 2358 amends the Tax Code to exempt from sales taxes the sale, lease, or rental of a taxable item by an out-of-state business entity in performing disaster- or emergency-related work during a disaster response period. Effective January 1, 2016, the bill specifies that "taxable entity," for purposes of statutory provisions relating to the franchise tax, does not include an out-of-state entity whose sole nexus with the state for the purpose of taxation is the entity's provision of disaster- or emergency-related work during a disaster response period.

EFFECTIVE DATE

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2015.