House Engrossed Senate Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 101

SENATE BILL 1258

AN ACT

AMENDING SECTION 26-303, ARIZONA REVISED STATUTES; RELATING TO STATE EMERGENCIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 26-303, Arizona Revised Statutes, is amended to read:

26-303. Emergency powers of governor; termination; authorization for adjutant general; limitation

A. During a state of war emergency, the governor may:

1. Suspend the provisions of any statute prescribing the procedure for conduct of state business, or the orders or rules of any state agency, if the governor determines and declares that strict compliance with the provisions of any such statute, order or rule would in any way prevent, hinder or delay mitigation of the effects of the emergency.

2. Commandeer and utilize any property, EXCEPT FOR FIREARMS OR AMMUNITION OR FIREARMS OR AMMUNITION COMPONENTS or personnel deemed necessary in carrying out the responsibilities vested in the office of the governor by this chapter as chief executive of the state and thereafter the state shall pay reasonable compensation therefor as follows:

(a) If property is taken for temporary use, the governor, within ten days after the taking, shall determine the amount of compensation to be paid therefor. If the property is returned in a damaged condition, the governor ~~shall~~, within ten days after its return, SHALL determine the amount of compensation to be paid for such damage.

(b) If the governor deems it necessary for the state to take title to property under this section, the governor shall then cause the owner of the property to be notified thereof in writing by registered mail, postage prepaid, and then cause a copy of the notice to be filed with the secretary of state.

(c) If the owner refuses to accept the amount of compensation fixed by the governor for the property referred to in subdivisions (a) and (b) ~~of this paragraph~~, the amount of compensation shall be determined by appropriate proceedings in the superior court in the county where the property was originally taken.

B. During a state of war emergency, the governor shall have complete authority over all agencies of the state government and shall exercise all police power vested in this state by the constitution and laws of this state in order to effectuate the purposes of this chapter.

C. The powers granted the governor by this chapter with respect to a state of war emergency shall terminate if the legislature is not in session and the governor ~~has not~~, within twenty-four hours after the beginning of such state of war emergency, HAS NOT issued a call for an immediate special session of the legislature for the purpose of legislating on subjects relating to such state of war emergency.

D. The governor may proclaim a state of emergency which shall take effect immediately in an area affected or likely to be affected if the governor finds that circumstances described in section 26-301, paragraph 15 exist.

E. During a state of emergency:

1. The governor shall have complete authority over all agencies of the state government and the right to exercise, within the area designated, all police power vested in the state by the constitution and laws of this state in order to effectuate the purposes of this chapter.

2. The governor may direct all agencies of the state government to utilize and employ state personnel, equipment and facilities for the performance of any and all activities designed to prevent or alleviate actual and threatened damage due to the emergency. The governor may direct such agencies to provide supplemental services and equipment to political subdivisions to restore any services in order to provide for the health and safety of the citizens of the affected area.

F. The powers granted the governor by this chapter with respect to a state of emergency shall terminate when the state of emergency has been terminated by proclamation of the governor or by concurrent resolution of the legislature declaring it at an end.

G. No provision of this chapter may limit, modify or abridge the powers vested in the governor under the constitution or statutes of this state.

H. If authorized by the governor, the adjutant general has the powers prescribed in this subsection. If, in the judgment of the adjutant general, circumstances described in section 26-301, paragraph 15 exist, the adjutant general may:

1. Exercise those powers pursuant to statute and gubernatorial authorization following the proclamation of a state of emergency under subsection D of this section.

2. Incur obligations of twenty thousand dollars or less for each emergency or contingency payable pursuant to section 35-192 as though a state of emergency had been proclaimed under subsection D of this section.

I. The powers exercised by the adjutant general pursuant to subsection H of this section expire seventy-two hours after the adjutant general makes a determination under subsection H of this section.

J. PURSUANT TO THE SECOND AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE II, SECTION 26, CONSTITUTION OF ARIZONA, AND NOTWITHSTANDING ANY OTHER LAW, THE EMERGENCY POWERS OF THE GOVERNOR, THE ADJUTANT GENERAL OR ANY OTHER OFFICIAL OR PERSON SHALL NOT BE CONSTRUED TO ALLOW THE IMPOSITION OF ADDITIONAL RESTRICTIONS ON THE LAWFUL POSSESSION, TRANSFER, SALE, TRANSPORTATION, CARRYING, STORAGE, DISPLAY OR USE OF FIREARMS OR AMMUNITION OR FIREARMS OR AMMUNITION COMPONENTS.

K. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE GOVERNOR, THE ADJUTANT GENERAL OR OTHER OFFICIALS RESPONDING TO AN EMERGENCY FROM ORDERING THE REASONABLE MOVEMENT OF STORES OF AMMUNITION OUT OF THE WAY OF DANGEROUS CONDITIONS.

APPROVED BY THE GOVERNOR APRIL 18, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2007.