

LFC Requester:	Scott Sanchez
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 1 FEB 24

Bill No: HB 309

Sponsor: James Townsend/Cathryn Brown/Rod Montoya/Alan Martinez/Mark Duncan
Short Title: Emergency Order Exemptions

Agency Name and Code Number: 790-Department of Public Safety
Person Writing: Dale Wagoner
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

While this bill proposes updates to the gendered language contained in the original statutes, the bill also proposes changes which would apply to all rules, orders, and directives issued under the All-Hazards Emergency Management Act, Riot Control Act, Public Health Emergency Response Act, Energy Emergency Response Act, and Energy Emergency Powers Act. It further provides that an order, rule or other directive issued by a governmental entity to close or limit businesses or facilities otherwise open to public use. It applies exemptions in whole or partially for institutions being operated by a religious organization.

FISCAL IMPLICATIONS

Depending on the DPS' role in implementing any rules, order, or directives issued under the listed emergency statutes, if passed, the DPS could be subject to costly litigation and damages, including punitive damages for purported harm suffered by a person or entity upon a showing of malicious application or reckless enforcement of an order.

SIGNIFICANT ISSUES

DPS often plays a significant role in implementing emergency orders and enforcing them and if passed, this bill would subject DPS to liability for its application and enforcement of such orders. The bill proposes to overturn decades of precedent to allow for unreasonable exceptions and costly litigation against the state during times of emergency. If passed, the bill would allow for arbitrary exemptions in whole or in part for some businesses, non-profits, and facilities, including those operated by a religious organization exempt under 26 USC 501(c)(3).3).

PERFORMANCE IMPLICATIONS

If passed, DPS's response to emergencies and the carrying out of any associated orders could be hampered by the addition of the exemptions and liabilities.

ADMINISTRATIVE IMPLICATIONS

No other administrative implications.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship, or relationship issues with other bills.

TECHNICAL ISSUES

No known technical issues to DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None at this time.