



SENATE BILL 498: Facilitate Response to Disasters.

2019-2020 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: July 9, 2019
Introduced by: Sens. B. Jackson, Blue, Newton	Prepared by: Cindy Avrette
Analysis of: Second Edition	Staff Attorney

OVERVIEW: *Senate Bill 498¹ would do two things to help facilitate and expedite recovery after a natural disaster:*

- *Provide tax and regulatory relief for nonresident businesses and nonresident employees that perform disaster-related work during a disaster response period at the request of a public utility or a public communications provider.*
- *Allow the Secretary of Revenue to issue a temporary license to an importer, exporter, distributor, or transporter of motor fuel in response to a disaster declaration.*

The provisions of the bill are identical to the provisions passed by the Senate in Part VI of Senate Bill 622, on May 20, 2019, and as passed by the Senate in Section 41.10 of the budget conference committee substitute for House Bill 966, on June 27, 2019.

CURRENT LAW, BILL ANALYSIS, AND EFFECTIVE DATE:

Senate Bill 498 would provide tax and regulatory relief to out-of-state businesses that come into the State immediately after a disaster to help with critical infrastructure repair. At least 29 states have enacted similar disaster recovery legislation. Those states include Ohio, Florida, Texas, Virginia, Georgia, South Carolina, and Tennessee. The bill would do two things:

- Exclude a nonresident business and nonresident employees from income, franchise, and unemployment insurance tax as well as business registration requirements.
- Allow the Secretary of Revenue to issue a temporary license to an importer, exporter, distributor, or transporter of motor fuel in response to a disaster declaration.

Nonresident business and nonresident employees. – Section 1 of the bill would provide that nonresident businesses and nonresident employees that are requested to come into the State at the request of a *critical infrastructure company* are not doing business in this State for the disaster-related work performed during the disaster response period, and are therefore exempt from registration requirements and various State tax requirements. The tax and regulatory relief provided by this Part is limited in several ways:

- It only applies to nonresident businesses and nonresident employees who come into the State at the request of a critical infrastructure company.
- It only applies to disaster-related work performed during a disaster response period.

¹ As introduced, this bill was identical to H538, as introduced by Reps. Howard, Setzer, Szoka, which is currently in House Finance.

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- It only applies if the nonresident business or nonresident employee has no other income attributable to this State. Ie, it only applies in situations where, but for this work, the business or employee would not be subject to NC income and franchise taxes.

The bill defines a "*critical infrastructure company*" as a corporation doing business in this State prior to the disaster declaration that meets one or more of the following:

- Provides broadband, mobile telecommunications, telecommunications, or wireless Internet access.
- Is subject to control of the NC Utilities Commission, the NC Rural Electrification Authority, the Federal Communications Commission, or the Federal Energy Regulatory Commission.

It defines a "*nonresident business*" as an entity that has not been required to file an income or franchise tax return with the State for three years prior to the disaster response period. The term "nonresident business" includes a corporation, an affiliate or subsidiary of a critical infrastructure company, a pass-through entity, as well as a sole proprietorship.

It defines "*critical infrastructure*." Examples of critical infrastructure include communications networks; electric generation, transmission, and distribution systems; natural gas transmission and distribution systems; water pipelines; and related support facilities. The term "*disaster-related work*" is defined as repairing, renovating, installing, building, or performing services on critical infrastructure.

It defines a "*disaster response period*" as the beginning 10 days prior to the first day of a disaster declaration and extending until the earlier of the following:

- 60 days following the expiration of the disaster declaration, as provided under G.S. 166A-19.21(c).
- 180 days following the issuance of the disaster declaration. This period of time coincides with the general law.

For a more complete summary of the tax relief provided by Section 1 of the bill, please see [Bill Summary for Senate Bill 498, as amended by Senate Finance](#).

Temporary license to import, export, distribute, or transport motor fuel

Section 2 of the bill would allow the Secretary of Revenue to issue a temporary license to an applicant to import, export, distribute, or transport motor fuel in this State in response to a disaster declaration. The temporary license would expire upon the expiration of the disaster declaration. The person would continue to be responsible for filing returns and paying the required motor fuel taxes, but the person would not have to post a bond or obtain a certificate of authority to operate in this State from the Secretary of State to receive the temporary license. The Secretary of Revenue would not be allowed to renew or issue a temporary license to a person that failed to file the required returns or make payments of the required taxes.

Effective date

The bill is effective when it becomes law and applies to disaster declarations made on or after that date.