STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB1892: Roberts

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 2001, Section 8, which relates to devolution of the powers and duties of the Governor; creating the Gubernatorial Powers Devolution Board; providing for membership, purpose, and meetings of the Board; clarifying process for devolution of power from the Governor to the Lieutenant Governor; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 2001, Section 8, is amended to read as follows:

Section 8. A. The Office of Governor, with its compensation, shall devolve upon the Lieutenant Governor or the person who is next in succession to the Office pursuant to the provisions of Section 15 of Article VI of the Oklahoma Constitution if the Governor transmits to the President Pro Tempore of the Senate and the Speaker of the House of Representatives ~~his~~ a written declaration that ~~he~~ the Governor is unable to discharge the powers and duties of ~~his~~ the Office. The Lieutenant Governor or other successor shall hold the Office until the Governor transmits to the President Pro Tempore of the Senate and the Speaker of the House of Representatives a written declaration that ~~he~~ the Governor is able to perform the powers and duties of ~~his~~ the Office.

B. ~~If a majority of a committee~~ There is hereby created the Gubernatorial Powers Devolution Board, comprised of the State Auditor and Inspector, State Treasurer, Superintendent of Public Instruction, Chairman of the Corporation Commission ~~and~~, Insurance

Commissioner, Commissioner of Mental Health and Substance Abuse Services, and the State Commissioner of Health. The Board shall convene upon the written request to the Secretary of State by:

1. The Speaker of the House of Representatives and the President Pro Tempore of the Senate; or

2. Any two members of the Board,

for the Board to consider whether or not the powers of the Office of Governor should devolve as provided by law. Upon filing of a written request, the Secretary of State shall convene a meeting of the Board. The Board shall elect a chair from its members who shall convene any additional meetings necessary to consider a request filed pursuant to this subsection. The Office of Secretary of State shall provide staff to the Board. The Board is subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

C. If the Gubernatorial Powers Devolution Board transmits to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor its written declaration that the Governor is unable to discharge the powers and duties of ~~his~~ the Office, then the Office, with its compensation, shall devolve upon the Lieutenant Governor or other successor ~~in~~ as provided by law forty-eight (48) hours after midnight of the day that the written declaration is filed, unless the Governor transmits to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the members of the ~~committee~~ Board a written declaration to the contrary within the same forty-eight-hour time period.

~~C.~~ D. If~~, within forty-eight (48) hours after~~ the Governor transmits ~~such~~ a declaration~~, a majority of the committee provided in subsection B of this section transmits to the President Pro Tempore of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is unable to perform the powers and duties of his Office~~ contesting the

declaration of the Gubernatorial Powers Devolution Board pursuant to subsection C of this section, then the Governor shall also convene an extraordinary session of the Legislature ~~shall convene~~ within ~~seventy-two (72) hours~~ three (3) days, excluding Saturday or Sunday and legal holidays. If a concurrent resolution declaring probable justification for a determination that inability exists is not adopted by two-thirds (2/3) of the members of each house of the Legislature within ~~seventy-two (72) hours~~ five (5) legislative days after the Legislature convenes, then the Governor shall continue to hold the Office.

If ~~such~~ a concurrent resolution is adopted by two-thirds (2/3) of the members of each house of the Legislature within ~~seventy-two (72) hours~~ five (5) legislative days after the Legislature convenes, then a copy of the concurrent resolution shall be transmitted immediately to the Supreme Court.

~~D. The~~ E. If a concurrent resolution is adopted pursuant to subsection D of this section, the Supreme Court shall determine the issue of the inability of the Governor, by preference and with priority over all other matters, under such rules as ~~it~~ the Supreme Court shall adopt. If the Supreme Court determines that the Governor is unable to perform the powers and duties of ~~his~~ the Office, then the Office, with its compensation, shall devolve upon the Lieutenant Governor or other successor as provided by law. If the Supreme Court determines that the Governor is able to perform the powers and duties of the Office, then ~~he~~ the Governor shall continue to hold the Office.

~~E.~~ F. If the Office has devolved upon the Lieutenant Governor or other successor pursuant to the provisions of this act, and a majority of the ~~committee~~ Gubernatorial Powers Devolution Board provided in subsection B of this section transmits to the President Pro Tempore of the Senate and the Speaker of the House of Representatives a written declaration that the Governor is able to

perform the powers and duties of ~~his~~ the Office, then the Supreme Court shall determine the issue pursuant to the provisions of subsection ~~D~~ E of this section.

~~F.~~ G. When the powers and duties of the Office ~~has~~ of Governor have devolved upon the Lieutenant Governor or other successor pursuant to law, the provisions of this act shall also apply to the person holding the Office.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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