

SENATE BILL REPORT

SB 6006

As Reported by Senate Committee On:
State Government, Tribal Relations & Elections, January 26, 2018

Title: An act relating to powers to waive statutory obligations or limitations during a state of emergency in order to cope with the emergency.

Brief Description: Concerning powers to waive statutory obligations or limitations during a state of emergency.

Sponsors: Senators Zeiger, Conway, McCoy, Hunt, Hobbs, Miloscia, Bailey, Angel, Warnick, Van De Wege, Chase, Saldaña and Kuderer.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 1/12/18, 1/19/18, 1/26/18 [DPS].

Brief Summary of First Substitute Bill

- Extends the Governor's authority under a declared state of emergency to waive or suspend certain statutory obligations or limitations in the affected area if strict compliance would in any way prevent, hinder or delay necessary action in coping with the emergency and requires the Governor give notice to legislative leadership and impacted local governments when issuing these orders.
- Limits a waiver or suspension of statutory obligations or limitations issued by the Governor to 30 days unless the Legislature extends it by concurrent resolution or in writing if the Legislature is not in session.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 6006 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Miloscia, Ranking Member; Saldaña and Zeiger.

Staff: Melissa Van Gorkom (786-7491)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: State of Emergency. A state of emergency is proclaimed by the Governor after finding that a public disorder, disaster, energy emergency, or riot exists within the state or any part thereof which affects life, health, property, or the public peace.

Emergency Proclamation. The Governor may proclaim a state of emergency in the area affected. The state of emergency is effective upon the Governor's signature and remains in effect until the Governor declares its termination. The Governor must terminate a state of emergency when order has been restored in the area effected.

Powers of Governor. An emergency proclamation enables the Governor to prohibit specific activities, such as public gatherings, transfer of combustible materials, public possession of firearms, and the use of public streets at any time during the state of emergency. In a state of emergency, the Governor may also prohibit activities as the Governor reasonably believes is necessary to help preserve and maintain life, health, property, or the public peace.

The Governor also has authority to waive or suspend statutory obligations or limitations for certain executive functions, during and in the areas affected by an emergency proclamation, including:

- liability for participation in interlocal agreements;
- inspection fees owed to the department of labor and industries;
- application of the family emergency assistance program;
- regulations, tariffs, and notice requirements under the jurisdiction of the utilities and transportation commission;
- application of tax due dates and penalties relating to collection of taxes; and
- permits for industrial, business, or medical uses of alcohol.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): The Governor has authority to waive or suspend statutory obligations or limitations for certain executive functions if strict compliance with the provision of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, unless:

- authority is expressly granted to another statewide elected official, or
- the waiver or exemption would conflict with either federal requirements that are a prescribed condition to the allocations of federal funds to the state.

The Governor is required to give as much notice as practical to legislative leadership and impacted local governments when issuing these orders.

A waiver or suspension of statutory obligations or limitations is limited to 30 days unless extended by the Legislature through concurrent resolution or in writing by the leadership of the Senate and the House of Representatives if the Legislature is not in session.

Leadership of the Senate and the House of Representatives means the majority leaders of the Senate and the House of Representatives and the minority leaders of the Senate and the House of Representatives.

EFFECT OF CHANGES MADE BY STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS COMMITTEE (First Substitute):

- Removes the restriction from issuing a waiver or exemption if it would conflict with first amendment rights of freedom of speech and of the people peaceably to assemble.
- Adds the ability for the leadership of the Senate and the House of Representatives to extend, in writing, the waiver or suspension of statutory obligations or limitations if the Legislature is not in session.
- Defines leadership of the Senate and the House of Representatives.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute: OTHER: The Governor currently lacks authority to temporarily waive many statutory or regulatory requirements if determined necessary in a proclaimed state of emergency. Generally, other state laws allow governors to temporarily suspend or waive statutes following disasters based on emergent needs. Legislation in 2008, provided a narrow capability for the Governor to waive specific laws. The problem is that there may be other statutes or rules that may need to be waived or suspended such as commercial vehicles operating on secondary roadways. This bill would provide the authority to temporarily waive statutes to help preserve and maintain life, health, property, or public peace during a proclaimed state of emergency.

The 30-day limitation is a good check and balance, but there may need to be more flexibility to the Legislature to grant extension, if they are not in session.

There may be a conflict with existing statute authorizing the Governor to prohibit persons from being in public places or from assembling or gathering in certain areas and new language protecting the First Amendment freedom of speech and of the people peaceably to assemble.

There is exception for other state elected officials, such as the insurance commissioner, that have statutory emergency authority within the bill, but pulling that language out may provide further clarification.

Persons Testifying: OTHER: Jason Marquiss, Deputy Director, Washington Military Department, Emergency Management Division; Lonnie Johns-Brown, Washington State Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: No one.