

HOUSE BILL REPORT

SB 5260

As Passed House - Amended:

April 17, 2019

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 in order to cope with the emergency.

Sponsors: Senators Zeiger, Hunt, Hobbs, Takko, Bailey and Conway.

Brief History:

Committee Activity:

Housing, Community Development & Veterans: 3/6/19, 3/22/19 [DPA].

Floor Activity:

Passed House - Amended: 4/17/19, 98-0.

Brief Summary of Bill (As Amended by House)

- Amends certain authorities granted to the Governor during a declared state of emergency.
- 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.

HOUSE COMMITTEE ON HOUSING, COMMUNITY DEVELOPMENT & VETERANS

Majority Report: Do pass as amended. Signed by 9 members: Representatives Ryu, Chair; Morgan, Vice Chair; Jenkin, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Barkis, Entenman, Frame, Leavitt and Reeves.

Staff: Serena Dolly (786-7150).

Background:

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.

The Governor may proclaim a state of emergency in any area of the state affected by public disorder, disaster, energy emergency, or riot. Under a state of emergency proclamation, the Governor may issue an order prohibiting such things as the gathering of persons in public or private places; the manufacture, transfer, possession, or use of explosive devices; transporting, possessing, or using combustible materials; possession of firearms or other deadly weapons; the sale and purchase of alcoholic beverages; and the use of certain streets or highways. Powers granted to the Governor under a declared emergency are effective only within the area described in and during the time of the proclamation.

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 Amended Bill:

The Governor's authority to prohibit the possession of firearms or any other deadly weapon in a place other than that person's place of residence or business during a declared state of emergency is removed.

The Governor is granted 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 an emergency, unless:

- authority is expressly granted to another statewide elected official;
- the waiver or exemption would conflict with federal requirements for the allocation of funds to the state; or
- the waiver or exemption would conflict with First Amendment rights of freedom of speech or of the people to peaceably assemble.

The Governor must provide as much notice as practical to legislative leadership and impacted local governments when issuing orders to waive or suspend statutory obligations or limitations for executive functions.

A waiver or suspension of statutory obligations or limitations issued by the Governor is limited to 30 days unless the Legislature extends it by 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 and minority leaders of the Senate and the Speaker and minority leader of the House of Representatives.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Effective emergency response may require specific laws or regulations to be waived, and different types of emergencies require different responses. The Governor needs authority to waive laws or regulations that prevent efficient emergency response. The Governor's emergency powers were expanded during the 2008 Chehalis floods but not expanded enough. This bill allows for flexible response while establishing checks and balances by requiring legislative approval if laws and regulations need to be suspended or waived for more than 30 days. Other states give their governors much broader authority during a state of emergency. This bill addresses the First Amendment concerns previously expressed.

(Opposed) None.

Persons Testifying: Senator Zeiger, prime sponsor; and Robert Ezelle, Washington Military Department.

Persons Signed In To Testify But Not Testifying: None.