
**State Government & Tribal Relations
Committee**

HB 1772

Brief Description: Increasing legislative involvement in gubernatorial proclamations relating to a state of emergency.

Sponsors: Representatives Corry, Chapman, Volz, Stokesbary, Robertson, Abbarno, MacEwen, Boehnke, Sutherland, Vick, Ybarra, Chambers, Dufault, Eslick, Barkis, Gilday, Jacobsen, Mosbrucker, Schmick, Maycumber, Griffey, Dent, Kraft, Graham and Caldier.

Brief Summary of Bill

- Limits a State of Emergency (SOE) to 60 days duration, unless extended by the Legislature.
- Limits Governor orders that prohibit certain actions during a SOE to 30 days duration, unless extended by the Legislature.
- Authorizes the Legislature to terminate a SOE or reinstate a previously terminated SOE.
- Authorizes the Legislature to terminate a restriction in a Governor order related to a SOE.
- Modifies the penalty for willfully violating a Governor's order from a gross misdemeanor to a civil infraction with a fine of up to \$1,000.
- Specifies that Governor orders related to a SOE must comply with specific formatting requirements.

Hearing Date: 1/31/22

Staff: Jason Zolle (786-7124).

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

Background:

States of Emergency.

By statute, the Governor is authorized to proclaim a State of Emergency (SOE) after finding that a public disorder, disaster, energy emergency, or riot affects life, health, property, or the public peace in this state. The proclamation is limited to the area affected by the emergency. The SOE is in effect until the Governor declares that it is over. The Governor is required to terminate a SOE when order has been restored in the area affected.

The Governor may order the state militia or the state patrol to assist in restoring order in the area described by the SOE. The Governor is also granted additional statutory powers during a SOE, which generally fall into two categories: (1) orders prohibiting certain actions; and (2) orders waiving or suspending certain provisions of law.

Prohibitions. In the area described by the SOE, the Governor may issue an order prohibiting certain specified activities, such as being in public during a period of curfew, using explosive devices, selling or purchasing certain goods in order to maintain health or peace, and using certain highways or roads. More generally, the Governor may also prohibit such other activities that the Governor reasonably believes should be prohibited to help preserve and maintain life, health, property, or the public peace in this state.

These prohibitions may be in effect for such times, upon such conditions, with such exceptions, and in such areas of the state that the Governor deems necessary. A person who willfully violates a Governor's order is guilty of a gross misdemeanor.

Waivers and Suspensions. In the area described by the SOE, the Governor may issue an order waiving or suspending certain specified statutory obligations or limitations. These include inspection fees and tax due dates. In addition, the Governor may suspend statutory or regulation obligations regarding state business, or the orders, rules, or regulations of a state agency, if strict compliance with the provisions of law would prevent, hinder, or delay necessary action in coping with the SOE. However, the Governor's suspension power does not apply if:

- the authority to suspend a specific provision is expressly granted to another statewide elected official;
- the waiver or suspension would conflict with federal requirements that are a condition to receive federal funds; or
- the waiver or suspension would conflict with First Amendment rights to free speech or peaceable assembly.

When issuing suspension orders, the Governor is required to give as much notice as is practical to leadership of the Legislature and impacted local governments.

Waiver and suspension orders may continue for no longer than 30 days, unless they are extended by the Legislature through concurrent resolution. If the Legislature is not in session, the orders may be extended in writing by legislative leadership: the Majority and Minority Leaders of the

Senate, and the Speaker and Minority Leader of the House (hereafter "Legislative Leadership").

Summary of Bill:

States of Emergency.

The duration of a SOE is limited to 60 days, unless it is extended by the Legislature through the following procedure:

- if the Legislature is in regular or special session, by concurrent resolution; or
- if the Legislature is not in session, by letter from Legislative Leadership.

No individual extension may exceed 60 days, but the Legislature may pass subsequent extensions.

The Legislature is given the authority to terminate a SOE through a concurrent resolution or, if the Legislature is not in session, by letter from Legislative Leadership.

After a SOE is terminated, the Governor may not declare a new SOE on the same or a substantially similar topic. The Legislature may reinstate a terminated SOE through a concurrent resolution or, if the Legislature is not in session, by letter from Legislative Leadership.

Prohibitions. Orders that prohibit certain actions may not continue longer than 30 days, unless extended by the Legislature through a concurrent resolution or, if the Legislature is not in session, by letter from Legislative Leadership.

The Legislature may terminate any restriction through a concurrent resolution or, if the Legislature is not in session, by letter from Legislative Leadership.

The penalty for a person who willfully violates a Governor's order is changed from a gross misdemeanor to a civil infraction with a fine of up to \$1,000. The fine is imposed at the discretion of the agency responsible for implementing the provision of the order that has been violated, or the Governor if there is no such agency.

Order Formatting Requirements. Governor orders must comply with specific formatting requirements.

1. Suspension or waiver orders must set forth the entirety of the sections of law that are being waived or suspended, clearly showing the provisions that are no longer in effect.
2. A new order that extends or modifies previous orders on the same topic must set forth, in full, the entirety of waivers or suspensions that are or continue to be in effect as of the issuance of the new order. If the new order modifies previous orders, the nature and extent of the modification must also be clearly described in the new order.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.