
OLR Bill Analysis

HB 5492

AN ACT CONCERNING THE PROCESS FOR PUBLIC HEALTH AND CIVIL PREPAREDNESS EMERGENCY DECLARATIONS.

SUMMARY

This bill increases legislative oversight of public health and civil preparedness emergencies declared by the governor. For both types of emergency declarations, it establishes a maximum initial length (180 days for public health and 100 days for civil preparedness) and generally requires approval by the full legislature before either emergency may be extended beyond 180 days.

The bill also limits renewals for either type of emergency to 90 days if they are issued more than 180 days after the initial declaration or result in the overall emergency period extending beyond 180 days. It allows the legislative leaders to disapprove of executive orders issued under (1) a public health emergency that has extended beyond 180 days and (2) a civil preparedness emergency that has extended beyond 100 days.

Additionally, the bill specifically allows the legislative leaders and Public Health Emergency Committee to use a virtual platform viewable to the public when holding any meeting under the bill's provisions (e.g., a meeting to consider disapproval of an emergency declaration).

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: Upon passage

§§ 1 & 2 — PUBLIC HEALTH EMERGENCY

Initial Declaration

Existing law allows the governor to declare a statewide or regional public health emergency (see BACKGROUND). The bill generally retains current law's provisions on the initial declaration of a public

health emergency, except that it limits this declaration to 180 days unless renewed. (Current law does not limit the declaration's length.)

Like current law, the bill (1) makes a public health emergency declaration effective upon filing with the secretary of the state (SOTS) and House and Senate clerks and (2) requires the governor to make a good-faith effort to inform the legislative leaders before declaring an emergency. It similarly retains a provision in current law allowing the Public Health Emergency Committee to disapprove of an emergency declaration by majority vote within 72 hours after it is filed with SOTS, although the bill requires that at least one of the votes for disapproval be from a member of the minority party. (As under existing law, the Public Health Emergency Committee consists of the six legislative leaders and the Public Health Committee's chairpersons and ranking members.)

Renewals (§ 1)

The bill places several limitations on renewals of a public health emergency declaration. As under current law, the bill allows the governor to renew a declaration by filing it with SOTS and the House and Senate clerks, but it requires him to first provide electronic notice to the legislative leaders at least five days in advance.

Current law allows the Public Health Emergency Committee to disapprove of a renewal declaration by majority vote within 72 hours after it is filed with SOTS. The bill instead establishes legislative oversight provisions that vary based on the length of the overall emergency period.

For renewals made fewer than 180 days after the initial declaration or that do not result in an overall emergency period that exceeds 180 days, the bill similarly allows the Public Health Emergency Committee to disapprove of it by majority vote within 72 hours after it is filed with SOTS, except that the bill requires that at least one of the votes for disapproval be from a member of the minority party.

The bill places additional limitations on renewals made more than

180 days after the original declaration or that result in an overall emergency period exceeding 180 days. It limits these renewals to 90 days and, with one exception, requires that they be approved by a majority vote in each chamber within 72 hours after being filed in order to remain effective.

The exception is if legislative leaders determine by majority vote that convening a session would present undue risk to members' health and safety, exacerbate the emergency, or is physically impossible. In each of these cases, the bill requires a majority vote by the Public Health Emergency Committee in order to continue the emergency. (However, the bill does not similarly establish a deadline by which this vote must occur.)

Executive Orders (§§ 1 & 2)

The bill limits the effective period of executive orders issued under a public health emergency declaration to the declaration's effective period and requires that they be filed with SOTS and the House and Senate clerks. It (1) allows orders issued more than 180 days after the initial declaration to be disapproved by majority vote at a meeting of the legislative leaders and (2) requires that the disapproval be filed with SOTS within 36 hours after the governor files the order with SOTS.

Orders Suspending or Modifying Statutes and Regulations. Existing law allows the governor, for both public health and civil preparedness emergencies, to suspend or modify statutes, regulations, and requirements that conflict with the emergency response (see BACKGROUND). The bill allows any executive order of this type issued more than 100 days after the initial public health emergency declaration to be disapproved by majority vote at a meeting of the legislative leaders (thus conflicting with the 180-day threshold described above).

§ 2 — CIVIL PREPAREDNESS EMERGENCY

Existing law allows the governor to declare a civil preparedness emergency, under which he may take direct operational control of any or all parts of the state's civil preparedness forces and functions and exercise other specified powers (see BACKGROUND).

The bill establishes several limitations on civil preparedness emergencies that generally parallel those it establishes for public health emergencies. However, it places additional limitations on civil preparedness emergencies, such as reducing the length of the initial declaration and subjecting additional executive orders to disapproval by the legislative leaders.

Initial Declaration

Under the bill, a civil preparedness emergency declaration is effective when the governor files the declaration with SOTS and the House and Senate clerks. Under current law, he must file it only with SOTS. The bill additionally requires the governor to make a good-faith effort to inform the legislative leaders before declaring an emergency.

The bill limits the declaration to 100 days unless renewed. (Current law does not limit the declaration's length.) The bill allows the legislative leaders to disapprove of an emergency declaration by majority vote within 72 hours after it is filed with SOTS, as long as at least one of the votes for disapproval is from a member of the minority party. Under current law, they may exercise this authority only if the emergency is declared for a disaster resulting from a man-made cause.

Renewals

The bill places several limitations on renewals of a civil preparedness emergency, which are not specifically addressed in current law. Generally, these limitations mirror those that the bill establishes for public health emergencies, except that it grants disapproval authority to the legislative leaders rather than the Public Health Emergency Committee.

As it does for a public health emergency, the bill allows the governor to renew a civil preparedness emergency declaration by filing it with SOTS and the House and Senate clerks, but it requires him to first provide electronic notice to the legislative leaders at least five days in advance.

For renewals made fewer than 180 days after the initial declaration or

that do not result in an overall emergency period that exceeds 180 days, the bill allows the legislative leaders to disapprove of it by majority vote within 72 hours after it is filed with SOTS, except that the bill requires that at least one of the votes for disapproval be from a member of the minority party.

The bill places additional limitations on renewals made more than 180 days after the original declaration or that result in an overall emergency period exceeding 180 days. It limits these renewals to 90 days and, with one exception, requires that they be approved by a majority vote in each chamber within three business days after being filed in order to remain effective.

The exception is if legislative leaders determine by majority vote that convening a session would present undue risk to members' health and safety, exacerbate the emergency, or is physically impossible. In each of these cases, the bill requires a majority vote by the leaders in order to continue the emergency. (However, the bill does not similarly establish a deadline by which this vote must occur.)

Executive Orders

The bill contains conflicting provisions regarding the legislative leaders' authority to disapprove executive orders. It (1) allows orders issued more than 100 days after the initial declaration of a civil preparedness emergency to be disapproved by majority vote at a meeting of the legislative leaders and (2) requires that the disapproval be filed with SOTS within 36 hours after the governor files the order with SOTS. (However, under current law and the bill, only orders suspending or modifying statutes, regulations, or requirements must be filed with SOTS; the bill additionally requires that they be filed with the House and Senate clerks.)

Separately, the bill allows the leaders to disapprove executive orders issued under a civil preparedness emergency if (1) at least one member of the minority party votes for the disapproval and (2) the disapproval is filed with SOTS within 72 hours after the emergency declaration. Under current law, they may do so only for orders resulting from a man-

made cause.

The bill limits the effective period of executive orders issued under a civil preparedness emergency declaration to the declaration's effective period. Current law establishes a six-month limit only for orders suspending or modifying statutes, regulations, or requirements.

BACKGROUND

Public Health Emergency

The law defines a public health emergency as the occurrence or imminent threat of the following:

1. communicable disease (except sexually transmitted diseases),
2. contamination caused (or believed to be caused) by bioterrorism,
3. epidemic or pandemic disease,
4. natural disaster,
5. chemical attack,
6. accidental release or a nuclear attack, or
7. accident posing a substantial risk of significant human fatalities or incidents of permanent or long-term disability (CGS § 19a-131(8)).

Civil Preparedness Emergency

The law allows the governor to declare a civil preparedness emergency in the event of a serious disaster, enemy attack, sabotage, or other hostile action; or the imminent occurrence of such events (CGS § 28-9(a)).

Executive Powers Under an Emergency Declaration

For both a civil preparedness and public health emergency, the governor may modify or suspend, in whole or in part, any statute, regulation, or requirement that he finds is in conflict with the efficient and expeditious execution of civil preparedness functions or the

protection of public health. Any such order has the full force and effect of law (CGS § 28-9(b)(1)).

Under a civil preparedness emergency, the governor, among other things, (1) must take appropriate measures for protecting health and safety of inmates of state institutions and children in schools and (2) may take other steps as are reasonably necessary in light of the emergency to protect the state population's health, safety, and welfare (CGS § 28-9(b)(5) & (7)).

Under a public health emergency, the public health commissioner may, among other things, order people into quarantine or issue a vaccination order (CGS § 19a-131 et seq).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 19 Nay 0 (03/29/2022)