

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

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Legislative Document

No. 1524

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H.P. 1009

House of Representatives, April 8, 2025

### **An Act to Enhance Legislative Participation in the Governor's Exercise of Emergency Powers**

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Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative LEE of Auburn.

1       **Be it enacted by the People of the State of Maine as follows:**

2               **Sec. 1. 37-B MRSA §741**, as amended by PL 2013, c. 146, §§9 to 12, is further  
3 amended to read:

4       **§741. Governor's powers**

5               **1. Control during emergencies.** In the event of disaster beyond local control, the  
6 Governor may assume direct operational control over all or any part of the emergency  
7 management and public safety functions within the State.

8               **2. Cooperation.** In performing the duties required by this chapter, the Governor shall,  
9 directly or through the commissioner, cooperate with all departments and agencies of the  
10 Federal Government, with the offices and agencies of other states and foreign countries and  
11 their political subdivisions and with private agencies in all matters pertaining to the  
12 emergency management capability of the State and of the Nation.

13               **3. Authority.** In performing the duties required by this chapter, the Governor, in direct  
14 consultation with the Legislative Council, may:

15               A. Make, amend and rescind the necessary orders and rules to carry out this chapter  
16 within the limits of the authority conferred upon the Governor and not inconsistent with  
17 the rules, regulations and directives of the President of the United States or of any  
18 federal department or agency having specifically authorized emergency management  
19 or homeland security functions;

20               B. Prepare a comprehensive plan and program for the emergency management  
21 functions of this State. That plan and program must be integrated into and coordinated  
22 with the emergency management plans of federal agencies and with the plans of other  
23 states and foreign countries, and their political subdivisions, to the fullest possible  
24 extent;

25               C. Coordinate the preparation of plans and programs for emergency management  
26 functions by the political subdivisions of the State. These plans must be integrated into  
27 and coordinated with the emergency management plan and program of the State to the  
28 fullest possible extent;

29               D. In accordance with the plan and program for the emergency management functions  
30 of the State, and consistent with the emergency management and homeland security  
31 plans, programs and directives of the Federal Government, procure supplies and  
32 equipment, institute training programs and public information programs and take all  
33 other preparatory steps, including the partial or full mobilization of emergency  
34 management organizations in advance of actual disaster or catastrophe, to ensure the  
35 furnishing of adequately trained and equipped forces of emergency management  
36 personnel in time of need;

37               E. Conduct studies and surveys and take inventories of the industries, resources and  
38 facilities of the State necessary to ascertain the State's emergency management  
39 capabilities, and plan for their most efficient emergency use, including emergency  
40 economic controls to ensure adequate production and equitable distribution of essential  
41 commodities;

42               F. Whenever a shortage of critical material supplies appears imminent in the State,  
43 establish emergency reserves of those products necessary to ensure the health, welfare

1 and safety of the people of the State. To establish those reserves, the Governor may  
2 purchase quantities of those materials for resale on a cost plus expenses basis for  
3 priority end users within the State;

4 G. On behalf of the State, enter into mutual aid arrangements with other states and  
5 foreign countries, and their political subdivisions, and coordinate mutual aid plans  
6 between political subdivisions of the State. If an arrangement is entered into with a  
7 jurisdiction that has enacted the Emergency Management Assistance Compact, chapter  
8 16, or the International Emergency Management Assistance Compact, chapter 16-A,  
9 any resulting agreement or agreements may be considered supplemental agreements  
10 pursuant to those compacts. If the other jurisdiction or jurisdictions with which the  
11 Governor proposes to cooperate have not enacted one of those compacts, the Governor  
12 may negotiate special agreements with the jurisdiction or jurisdictions. Any  
13 agreement, if sufficient authority for its making does not otherwise exist, becomes  
14 effective only after approval by the Legislature;

15 G-1. Establish and ensure maintenance of a primary facility designated as the State  
16 Emergency Operations Center from which the emergency coordination of response to  
17 and recovery from a disaster may be effectively carried out and ensure the identification  
18 of an alternate site that may be used for this purpose if necessary; and

19 H. Delegate any authority vested in the Governor under this chapter and provide for  
20 the subdelegation of that authority.

21 In carrying out the duties of this section, the Governor shall narrowly tailor the  
22 Governor's actions to address the public health or safety emergency to which the actions  
23 are directed while limiting the extent to which the actions deviate from the actions that  
24 would be permissible in the absence of a declared emergency.

25 The Superior Court has jurisdiction over cases brought by individuals adversely  
26 affected by actions taken pursuant to this section and shall determine in such matters  
27 whether the Governor's actions are sufficiently narrowly tailored. Pursuant to the Maine  
28 Rules of Civil Procedure, Rule 65, the court may provide for a temporary restraining order  
29 or preliminary injunction in those cases. If a temporary restraining order or preliminary  
30 injunction is issued against the Governor's action or actions pursuant to this section, an  
31 appeal by the Governor of the order or injunction to the Supreme Judicial Court must be  
32 expedited.

33 **Sec. 2. 37-B MRSA §742, sub-§1**, as amended by PL 2021, c. 28, Pt. C, §1, is  
34 further amended to read:

35 **1. Emergency proclamation.** Emergency proclamations must be issued as follows.

36 A. Whenever a disaster or civil emergency exists or appears imminent, the Governor  
37 shall, by oral proclamation, declare a state of emergency in the State or any section of  
38 the State. If the Governor is temporarily absent from the State or is otherwise  
39 unavailable, the next person in the State who would act as Governor if the office of the  
40 Governor were vacant may, by oral proclamation, declare the fact that a civil  
41 emergency exists or appears sufficiently imminent to activate emergency plans in any  
42 or all areas of the State. A written copy of the proclamation must be filed with the  
43 Secretary of State within 24 hours of the oral proclamation.

1 B. Subject at all times to the further direction and order of the Governor, an executive  
2 proclamation of emergency activates the emergency plans applicable to the affected  
3 areas and is the authority for the deployment and use of any forces or resources to  
4 which the plan or plans apply.

5 C. After the filing of the emergency proclamation and in addition to any other powers  
6 conferred by law, the Governor, in direct consultation with the Legislative Council,  
7 may:

8 (1) Suspend the enforcement of any statute prescribing the procedures for conduct  
9 of state business, or the orders or rules of any state agency, if strict compliance  
10 with the provisions of the statute, order or rule would in any way prevent, hinder  
11 or delay necessary action in coping with the emergency;

12 (2) Utilize all available resources of the State Government and of each political  
13 subdivision of the State as reasonably necessary to cope with the disaster  
14 emergency;

15 (3) Transfer the direction, personnel or functions of state departments and  
16 agencies, or units thereof, for the purposes of performing or facilitating emergency  
17 services;

18 (4) Authorize the obtaining and acquisition of property, supplies and materials  
19 pursuant to section 821;

20 (5) Enlist the aid of any person to assist in the effort to control, put out or end the  
21 emergency or aid in the caring for the safety of persons;

22 (6) Direct and compel the evacuation of all or part of the population from any  
23 stricken or threatened area within the State, if the Governor determines this action  
24 necessary for the preservation of life or other disaster mitigation, response or  
25 recovery;

26 (7) Prescribe routes, modes of transportation and destinations in connection with  
27 evacuations;

28 (8) Control ingress and egress to and from a disaster area, the movement of persons  
29 within the area and the occupancy of premises therein;

30 (9) Suspend or limit the sale, dispensing or transportation of alcoholic beverages,  
31 explosives and combustibles;

32 (10) Make provision for the availability and use of temporary emergency housing;

33 (11) Order the termination, temporary or permanent, of any process, operation,  
34 machine or device which may be causing or is understood to be the cause of the  
35 state of emergency for which this proclamation was made;

36 (12) Take whatever action is necessary to abate, clean up or mitigate whatever  
37 danger may exist within the affected area; and

38 (13) During a state of emergency declared by the Governor in accordance with  
39 this section due to the outbreak of COVID-19:

40 (a) Reasonably adjust time frames and deadlines imposed by law for state,  
41 county and municipal governments and other entities when such an adjustment  
42 is reasonably necessary to mitigate an effect of the emergency;

- 1 (b) In consultation with the Public Utilities Commission, suspend the  
2 termination of residential electricity and water services during the period of  
3 emergency and up to 60 days after the state of emergency is terminated; and  
4 (c) Modify or suspend the requirements for professional or occupational  
5 licensing or registration by any agency, board or commission if strict  
6 compliance with such requirements would in any way prevent, hinder or delay  
7 necessary action in dealing with the emergency.

8 The powers granted in divisions (a) and (c) terminate 30 days following the  
9 termination of the state of emergency.

10 E. In dealing with a declared state of emergency under this subsection, the Governor  
11 shall ensure that:

12 (1) Medical privacy and confidentiality requirements, including but not limited to  
13 requirements under the federal Health Insurance Portability and Accountability Act  
14 of 1996, are followed; and

15 (2) Health care services and surgeries are not considered to be nonessential  
16 services.

17 F. The Governor, during the pendency of a state of emergency, may not without  
18 approval of the Legislature reissue or renew an emergency proclamation, issue another  
19 emergency proclamation that is substantially similar to one that expired or reissue an  
20 emergency proclamation terminated by the Legislature.

21 G. The Governor, during the pendency of a state of emergency, shall provide a detailed  
22 written weekly briefing to the Legislative Council. At a minimum, the briefing must  
23 detail all actions taken pursuant to this section and, with respect to such actions, must  
24 detail how and whether the actions have been successful in abating the public health or  
25 safety emergency. Compliance with this section does not by itself satisfy the  
26 Governor's obligations to directly consult the Legislative Council when acting pursuant  
27 to this section, when applicable.

28 **Sec. 3. 37-B MRSA §743, sub-§2**, as enacted by PL 1983, c. 594, §34, is amended  
29 to read:

30 **2. Limitation.** ~~No~~ As long as each House of the Legislature is able to assemble either  
31 in person or remotely as authorized by a joint order passed by the Legislature, a state of  
32 emergency may not continue for longer than 30 days unless it is renewed by the Governor  
33 a 3/5 vote of each House of the Legislature. If either House of the Legislature is unable to  
34 assemble within 30 days, that House of the Legislature shall take a renewal vote as soon as  
35 practicable. If the state of emergency is not renewed following a vote by the Legislature,  
36 the Governor shall issue an executive proclamation ending the state of emergency within  
37 24 hours of the vote not renewing the state of emergency. The Legislature, by joint  
38 resolution, may terminate a state of emergency at any time any time by the vote of a majority  
39 of each House of the Legislature. Thereupon, the The Governor shall then issue an  
40 executive proclamation ending the state of emergency.

## 41 SUMMARY

42 This bill:

1           1. Requires that the Governor, in performing the Governor's duties related to  
2 emergency management functions and emergency powers, consult directly with the  
3 Legislative Council;

4           2. Requires the Governor to narrowly tailor actions to address the public health or  
5 safety emergency;

6           3. Provides that the Superior Court has jurisdiction over cases brought by individuals  
7 adversely affected by actions taken pursuant to the Governor's emergency powers. The  
8 Governor may appeal to the Supreme Judicial Court and that appeal must be expedited;

9           4. Prohibits the Governor from reissuing or renewing an emergency proclamation, or  
10 issuing an emergency declaration that is substantially similar to one that expired or  
11 reissuing an emergency proclamation that was terminated by the Legislature, without  
12 legislative approval;

13           5. Requires the Governor, during a state of emergency, to provide a detailed written  
14 weekly briefing to the Legislative Council detailing actions taken to address the  
15 emergency; and

16           6. Provides that, as long as each House of the Legislature is able to assemble, a state of  
17 emergency may not continue for longer than 30 days unless it is renewed by a 3/5 vote of  
18 each House.