

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 608

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H.P. 444

House of Representatives, March 1, 2021

### An Act Regarding the Governor's Emergency Powers

(EMERGENCY)

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Received by the Clerk of the House on February 25, 2021. Referred to the Committee on State and Local Government pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT  
Clerk

Presented by Representative JOHANSEN of Monticello.  
Cosponsored by Senator STEWART of Aroostook and  
Representatives: QUINT of Hodgdon, STANLEY of Medway, UNDERWOOD of Presque  
Isle.

1           **Emergency preamble.** Whereas, acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas**, under Maine law, a proclamation of a state of emergency must be extended  
4 every 30 days to remain in effect; and

5           **Whereas**, the Governor proclaimed a state of emergency on March 15, 2020 to  
6 authorize the use of emergency powers related to the COVID-19 pandemic; and

7           **Whereas**, the Governor issued extensions of the state of emergency on April 14, 2020,  
8 May 13, 2020, June 10, 2020, July 8, 2020, August 5, 2020, September 2, 2020, September  
9 30, 2020, October 29, 2020, November 24, 2020, December 22, 2020 and issued the 11th  
10 extension on January 19, 2021; and

11           **Whereas**, to ensure the Legislature's oversight of the Governor's authority to extend  
12 a state of emergency and the Governor's powers during a state of emergency, this Act  
13 requires the Governor to convene the Legislature if a state of emergency or an order or rule  
14 issued pursuant to the state of emergency is to be in effect for longer than 30 days; and

15           **Whereas**, in the judgment of the Legislature, these facts create an emergency within  
16 the meaning of the Constitution of Maine and require the following legislation as  
17 immediately necessary for the preservation of the public peace, health and safety; now,  
18 therefore,

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

20           **Sec. 1. 37-B MRSA §742, sub-§1, ¶A**, as amended by PL 2001, c. 353, §4, is  
21 further amended to read:

22           A. Whenever a disaster or civil emergency exists or appears imminent, the Governor  
23 shall, by oral proclamation, declare a state of emergency in the State ~~or~~ any section of  
24 the State or any county in which a disaster or civil emergency exists or appears  
25 imminent as long as the disaster or civil emergency has been declared by the board of  
26 commissioners for that county. If the Governor is temporarily absent from the State or  
27 is otherwise unavailable, the next person in the State who would act as Governor if the  
28 office of the Governor were vacant may, by oral proclamation, declare the fact that a  
29 civil emergency exists or appears sufficiently imminent to activate emergency plans in  
30 any or all areas of the State in accordance with this paragraph. A written copy of the  
31 proclamation must be filed with the Secretary of State within 24 hours of the oral  
32 proclamation.

33           **Sec. 2. 37-B MRSA §742, sub-§1, ¶E** is enacted to read:

34           E. If an order or rule issued by the Governor, pursuant to the powers granted in  
35 paragraph C, is to be in effect for longer than 30 days, the Governor shall, before the  
36 30th day following the issuance of the order or rule, convene the Legislature, and the  
37 Legislature must, by a 2/3 vote in each House, vote to extend the Governor's authority  
38 to extend that order or rule.

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

41           **2. Limitation.** ~~No~~ A state of emergency may not continue for longer than 30 days  
42 unless renewed by the Governor. If the state of emergency is to be in effect for longer than

1 30 days, the Governor shall, before the 30th day following the initial declaration of the  
2 state of emergency, convene the Legislature, and the Legislature must, by a 2/3 vote in each  
3 House, vote to extend the state of emergency. If the Legislature does not vote to extend  
4 the state of emergency, the Governor may not declare a similar, subsequent state of  
5 emergency. The Legislature, by joint resolution, may terminate a state of emergency at  
6 ~~anytime any time.~~ ~~Thereupon~~ Upon the Legislature's voting to not extend a state of  
7 emergency or the Legislature's termination of a state of emergency, the Governor shall  
8 issue an executive proclamation ending the state of emergency.

9 **Emergency clause.** In view of the emergency cited in the preamble, this legislation  
10 takes effect when approved.

### 11 SUMMARY

12 This bill requires the Governor to convene the Legislature if a declared state of  
13 emergency is to be in effect for longer than 30 days. If the Legislature does not, by a 2/3  
14 vote in each House, vote to extend the state of emergency, the Governor may not declare a  
15 similar, subsequent state of emergency.

16 The bill also requires the Governor to convene the Legislature if, after a state of  
17 emergency is declared, an order or rule issued by the Governor is to be in effect for longer  
18 than 30 days. The Legislature must, by a 2/3 vote in each House, vote to extend the  
19 Governor's authority to extend that order or rule.

20 The bill also limits the Governor's authority to declare a state of emergency in a county  
21 unless the county's board of commissioners has declared that a disaster or civil emergency  
22 exists.