

# MAINE STATE LEGISLATURE

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L.D. 980

Date: 6-3-21

(Filing No. H.369 )

REPORT C  
STATE AND LOCAL GOVERNMENT

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "B" to H.P. 726, L.D. 980, "An Act To Establish Balance in the Governor's Emergency Powers"

Amend the bill in section 1 in paragraph C in the first line (page 1, line 4 in L.D.) by striking out the following: "7" and inserting the following: '30'

Amend the bill by striking out all of sections 2 to 5 and inserting the following:

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

F. The Governor, during the pendency of a state of emergency, may not reissue or renew an emergency proclamation, issue another emergency proclamation that is substantially similar to one that expired or reissue an emergency proclamation that the Legislature has terminated pursuant to paragraph G without approval of the Legislature pursuant to paragraph G, except that the Governor, based on significant changes in circumstances, may reimpose such an emergency proclamation for a single period of 3 days if the Governor calls upon the Legislature to reconsider the order and changed circumstances.

Sec. 3. 37-B MRSA §742, sub-§1, ¶G is enacted to read:

G. After 30 days have elapsed from the issuance of an emergency proclamation by the Governor, all emergency powers revert to the Legislature. Emergency proclamations may be extended or discontinued by the Legislature pursuant to this paragraph.

(1) The Legislature may extend an emergency proclamation issued pursuant to this subsection up to a maximum of 30 days by a 2/3 majority vote in each House of the Legislature. Additional 30-day extensions of the emergency proclamation may be approved, but only if done in compliance with this subparagraph.

(2) The Legislature may terminate an emergency proclamation issued pursuant to this subsection, in whole or in part, by a majority vote of each House.

Sec. 4. 37-B MRSA §742, sub-§1-A is enacted to read:

COMMITTEE AMENDMENT

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1-A. Limitation on emergency powers. The exercise of any emergency power the Governor may have under the Constitution of Maine or the laws of this State that binds or regulates the public is limited as provided in this subsection.

A. As used in this subsection, "emergency order" means an order, decree, regulation or other mandate proclaimed or promulgated by the Governor under the authority to declare a state of emergency under the Constitution of Maine or laws of the State.

B. Notwithstanding subsection 1, paragraph D or any other law to the contrary, an emergency order that is issued by the Governor that binds, curtails or infringes the rights of private parties must be narrowly tailored to serve a compelling health or safety purpose. Each emergency order must be limited in duration, applicability and scope in order to reduce any infringement of individual liberty.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment, which is the minority report of the committee, sets the term of an initial emergency order issued by the Governor to 30 days. It requires a majority vote of each House of the Legislature to terminate an emergency order issued by the Governor. It removes the language permitting debate and voting of the Legislature to be conducted by electronic or other means. It removes the provision establishing the penalty of impeachment against the Governor for exceeding the Governor's authority to exercise emergency powers. It removes language applying certain provisions of this bill to the acts of state and local officials and it removes an unnecessary recitation of state courts' jurisdiction over emergency orders.

**FISCAL NOTE REQUIRED**

(See attached)



# 130th MAINE LEGISLATURE

LD 980

LR 815(02)

**An Act To Establish Balance in the Governor's Emergency Powers**

**Fiscal Note for Bill as Amended by Committee Amendment *B(CH-369)***  
**Committee: State and Local Government**  
**Fiscal Note Required: Yes**

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## Fiscal Note

### Legislative Cost/Study

#### Legislative Cost/Study

Current law allows the Legislature to terminate a state of emergency by joint resolution at any time. The bill requires a 2/3 vote in each House of the Legislature to extend a state of emergency for up to 30 days beyond the timeframe for the initial proclamation and to approve additional extensions for up to 30 days. It also requires a majority vote of each House to terminate the emergency proclamation. The Legislature's baseline budget for 2022-2023 includes funds for the Legislature to meet in special session on 2 days each fiscal year following the applicable statutory deadline. Whether or not there are sufficient funds to cover the cost of holding a special session for the purpose of extending or terminating a state of emergency will depend on the number of times the Legislature is required to convene in special session during the interim.