

House Bill 2243

Sponsored by Representatives WILDE, LEWIS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that declarations and extensions of states of emergency under certain statutes be accompanied by written explanations.

Establishes durational limits for states of emergency declared under certain statutes. Provides that certain extensions of states of emergency may be made only if Governor first convenes Legislative Assembly.

Provides that emergency rules and orders expire upon termination of state of emergency.

Provides that, after termination of state of emergency, Governor may not declare another state of emergency for same purpose unless so authorized by Legislative Assembly.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to declarations of emergency; amending ORS 401.165, 401.192, 401.204 and 433.441; and
3 prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 401.165 is amended to read:

6 401.165. (1)(a) The Governor may declare a state of emergency by proclamation at the request
7 of a county governing body or after determining that an emergency has occurred or is imminent.

8 **(b) A declaration of emergency under this section is valid only if, at the time of the**
9 **declaration, the Governor issues a written, public statement setting forth the reasons for the**
10 **declaration and the geographic scope of the declaration. The statement must contain specific**
11 **facts in support of its conclusions.**

12 (2) All requests by a county governing body that the Governor declare an emergency shall be
13 sent to the Office of Emergency Management. Cities must submit requests through the governing
14 body of the county in which the majority of the city's property is located. Requests from counties
15 shall be in writing and include the following:

16 (a) A certification signed by the county governing body that all local resources have been ex-
17 pended; and

18 (b) A preliminary assessment of property damage or loss, injuries and deaths.

19 (3)(a) If, in the judgment of the Adjutant General, the Governor cannot be reached by available
20 communications facilities in time to respond appropriately to an emergency, the Adjutant General
21 shall notify the Secretary of State or, if the Secretary of State is not available, the State Treasurer
22 that the Governor is not available.

23 (b) After notice from the Adjutant General that the Governor is not available, the elected state
24 official so notified may declare a state of emergency pursuant to the provisions of subsections (1)
25 and (2) of this section.

26 (c) If the Adjutant General is unavailable to carry out the duties described in this subsection,
27 such duties shall be performed by the Director of the Office of Emergency Management.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (4) Any state of emergency declared by the Secretary of State or State Treasurer pursuant to
 2 this section has the same force and effect as if issued by the Governor, except that it must be af-
 3 firmed by the Governor as soon as the Governor is reached. However, if the Governor does not set
 4 aside the proclamation within 24 hours of being reached, the proclamation shall be considered af-
 5 firmed by the Governor.

6 (5) Any proclamation of a state of emergency must specify the geographical area covered by the
 7 proclamation. Such area shall be no larger than necessary to effectively respond to the emergency.

8 (6) The governing body of each county shall establish a procedure for receiving, processing and
 9 transmitting to the Office of Emergency Management, in a timely manner, a request submitted by
 10 a city that the Governor declare an emergency.

11 **SECTION 2.** ORS 401.204 is amended to read:

12 **401.204. (1) A state of emergency declared under ORS 401.165 or 433.441 terminates 60**
 13 **days after the state of emergency is first declared, unless extended under subsection (2) or**
 14 **(3) of this section.**

15 **(2) During the state of emergency, the Governor may extend the state of emergency by**
 16 **a maximum of 30 days. The Governor may extend the state of emergency only once under**
 17 **this subsection.**

18 **(3)(a) Notwithstanding subsection (2) of this section, during the state of emergency, the**
 19 **Governor may extend the state of emergency by a maximum of 60 days if the Governor first**
 20 **convenes the Legislative Assembly under Article V, section 12, of the Oregon Constitution.**
 21 **There is no limit to the number of times the Governor may extend the state of emergency**
 22 **under this subsection, but the Governor must convene the Legislative Assembly before each**
 23 **extension under this subsection.**

24 **(b) The Governor is not required to convene the Legislative Assembly to extend a state**
 25 **of emergency under this subsection if the Legislative Assembly is in session at the time of**
 26 **the extension.**

27 **(4) An extension of a state of emergency under subsection (2) or (3) of this section is**
 28 **valid only if, at the time of the extension, the Governor issues a written, public statement**
 29 **setting forth the circumstances necessitating an extension. The statement must contain**
 30 **specific facts in support of its conclusions.**

31 **[(1)] (5) The Governor shall terminate the state of emergency by proclamation when the emer-**
 32 **gency no longer exists, or when the threat of an emergency has passed. The Governor may ter-**
 33 **minate the state of emergency before the state of emergency terminates under subsections**
 34 **(1) to (3) of this section.**

35 **[(2)] (6) The state of emergency proclaimed by the Governor may be terminated at any time by**
 36 **joint resolution of the Legislative Assembly.**

37 **(7) After the state of emergency terminates, the Governor may not declare another state**
 38 **of emergency for the same purpose unless so authorized by joint resolution of the Legislative**
 39 **Assembly.**

40 **SECTION 3.** ORS 401.192 is amended to read:

41 **401.192. (1) All rules and orders issued under authority conferred by ORS 401.165 to 401.236**
 42 **shall have the full force and effect of law [both] during [and after] the declaration of a state of**
 43 **emergency. All existing laws, ordinances, rules and orders inconsistent with ORS 401.165 to 401.236**
 44 **shall be inoperative during the period of time and to the extent such inconsistencies exist.**

45 **(2) The authority exercised under ORS 401.165 to 401.236 may be exercised with respect to the**

1 entire territory over which the Governor has jurisdiction, or to any specified part thereof.

2 (3) When real or personal property is taken under power granted by ORS 401.188, the owner of
3 the property shall be entitled to reasonable compensation from the state.

4 (4) *[The powers]* **Rules or orders issued under authority** granted to the Governor by ORS
5 401.165 to 401.236 *[shall continue until]* **expire upon** termination of the state of emergency. The
6 powers granted to the Governor by ORS 401.185 may continue beyond the termination of the state
7 of emergency and *[shall]* **may** be terminated by proclamation of the Governor or by joint resolution
8 of the Legislative Assembly.

9 **SECTION 4.** ORS 433.441 is amended to read:

10 433.441. (1) Upon the occurrence of a public health emergency, the Governor may declare a state
11 of public health emergency as authorized by ORS 433.441 to 433.452 to protect the public health.

12 (2) A proclamation of a state of public health emergency must specify, **with reference to spe-**
13 **cific facts in support of its conclusions:**

- 14 (a) The nature of the public health emergency;
- 15 (b) The political subdivision or geographic area subject to the proclamation;
- 16 (c) The conditions that have brought about the public health emergency; and
- 17 (d) The duration of the state of public health emergency, if the duration is less than *[14]* **60** days.

18 (3) During a public health emergency, the Governor may:

19 (a) Close[,] **or** order the evacuation of or the decontamination of any facility the Governor has
20 reasonable cause to believe may endanger the public health.

21 (b) Regulate or restrict by any means necessary the use, sale or distribution of food, fuel, med-
22 ical supplies, medicines or other goods and services.

23 (c) Prescribe modes of transportation, routes and destinations required for the evacuation of
24 individuals or the provision of emergency services.

25 (d) Control or limit entry into, exit from, movement within and the occupancy of premises in any
26 public area subject to or threatened by a public health emergency if such actions are reasonable
27 and necessary to respond to the public health emergency.

28 (e) Authorize pharmacists licensed under ORS chapter 689 to administer vaccines to persons
29 who are three years of age or older.

30 (f) Take any other action that may be necessary for the management of resources, or to protect
31 the public during a public health emergency, including any actions authorized under ORS 401.168,
32 401.185, 401.188 and 401.192.

33 (4) Nothing in ORS 433.441 to 433.452 limits the authority of the Governor to declare a state
34 of emergency under ORS 401.165. If a state of emergency is declared as authorized under ORS
35 401.165, the Governor may implement any action authorized by ORS 433.441 to 433.452.

36 *[(5) A proclamation of a state of public health emergency expires when terminated by a declaration
37 of the Governor or no more than 14 days after the date the public health emergency is proclaimed un-
38 less the Governor expressly extends the proclamation for an additional 14-day period.]*

39 **(5) A public health emergency declared under this section is subject to the durational
40 limits and other provisions of ORS 401.204.**

41 **(6) Rules or orders issued under authority granted by ORS 433.441 to 433.452 expire upon
42 termination of the state of emergency.**

43 *[(6)]* (7) When real or personal property is taken under power granted by this section, the owner
44 of the property shall be entitled to reasonable compensation from the state.

45 **SECTION 5. This 2021 Act takes effect on the 91st day after the date on which the 2021**

1 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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