

# Senate Bill 1517

Sponsored by Senator BOQUIST (Pre-session 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 with approval of 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.

Provides that states of emergency in effect on effective date of Act are terminated 30 days after effective date of Act unless extended.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to declarations of emergency; creating new provisions; amending ORS 401.165, 401.192,  
3 401.204 and 433.441; and declaring an emergency.

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 by proclamation may declare a state of emergency 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 Oregon Department of Emergency Management. Cities must submit requests through the  
14 governing body of the county in which the majority of the city's property is located. Requests from  
15 counties 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 Director of the Oregon Department of Emergency Management,  
20 the Governor cannot be reached by available communications facilities in time to respond appro-  
21 priately to an emergency, the director shall notify the Secretary of State or, if the Secretary of State  
22 is not available, the State Treasurer that the Governor is not available.

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

26 (c) If the director is unavailable to carry out the duties described in this subsection, such duties

**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 shall be performed by the Adjutant General.

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

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

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

12 **SECTION 1a.** ORS 401.165, as operative until July 1, 2022, is amended to read:

13 401.165. (1)(a) The Governor may declare a state of emergency by proclamation at the request  
14 of a county governing body or after determining that an emergency has occurred or is imminent.

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

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

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

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

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

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

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

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

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

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

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

1 401.204. (1) A state of emergency declared under ORS 401.165 or 433.441 terminates 30  
 2 days after the state of emergency is first declared, unless extended under subsection (2) or  
 3 (3) of this section.

4 (2) During the state of emergency, the Governor may extend the state of emergency by  
 5 a maximum of 30 days. The Governor may extend the state of emergency only once under  
 6 this subsection.

7 (3) Notwithstanding subsection (2) of this section, during the state of emergency, the  
 8 Governor may extend the state of emergency by a maximum of 60 days if the extension is  
 9 previously approved by a joint resolution adopted by two-thirds of the members serving in  
 10 each house of the Legislative Assembly. There is no limit to the number of times the Gov-  
 11 ernor may extend the state of emergency under this subsection, but each extension must be  
 12 separately approved by the Legislative Assembly as described in this subsection.

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

17 [(1)] (5) The Governor shall terminate the state of emergency by proclamation when the emer-  
 18 gency no longer exists, or when the threat of an emergency has passed.

19 [(2)] (6) The state of emergency proclaimed by the Governor may be terminated at any time by  
 20 joint resolution of the Legislative Assembly.

21 (7) After the state of emergency terminates, the Governor may not declare another state  
 22 of emergency for the same purpose unless so authorized by joint resolution of the Legislative  
 23 Assembly.

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

25 401.192. (1) All rules and orders issued under authority conferred by ORS 401.165 to 401.236  
 26 shall have the full force and effect of law both during and after the declaration of a state of emer-  
 27 gency. All existing laws, ordinances, rules and orders inconsistent with ORS 401.165 to 401.236 shall  
 28 be inoperative during the period of time and to the extent such inconsistencies exist.

29 (2) The authority exercised under ORS 401.165 to 401.236 may be exercised with respect to the  
 30 entire territory over which the Governor has jurisdiction, or to any specified part thereof.

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

33 (4) [*The powers*] **Rules or orders issued under authority** granted to the Governor by ORS  
 34 401.165 to 401.236 [*shall continue until*] **expire upon** termination of the state of emergency. The  
 35 powers granted to the Governor by ORS 401.185 may continue beyond the termination of the state  
 36 of emergency and [*shall*] **may** be terminated by proclamation of the Governor or by joint resolution  
 37 of the Legislative Assembly.

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

39 433.441. (1) Upon the occurrence of a public health emergency, the Governor may declare a state  
 40 of public health emergency as authorized by ORS 433.441 to 433.452 to protect the public health.

41 (2) A declaration of a state of public health emergency must specify, **with reference to specific**  
 42 **facts in support of its conclusions:**

43 (a) The nature of the public health emergency;

44 (b) The political subdivision or geographic area subject to the declaration;

45 (c) The conditions that have brought about the public health emergency; and

(d) The duration of the state of public health emergency, if the duration is less than [14] 30 days.

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 4a.** ORS 433.441, as operative until July 1, 2022, is amended to read:

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

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

(a) The nature of the public health emergency;

(b) The political subdivision or geographic area subject to the proclamation;

(c) The conditions that have brought about the public health emergency; and

(d) The duration of the state of public health emergency, if the duration is less than [14] 30 days.

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

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

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

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

(d) Control or limit entry into, exit from, movement within and the occupancy of premises in any

1 public area subject to or threatened by a public health emergency if such actions are reasonable  
2 and necessary to respond to the public health emergency.

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

5 (f) Take any other action that may be necessary for the management of resources, or to protect  
6 the public during a public health emergency, including any actions authorized under ORS 401.168,  
7 401.185, 401.188 and 401.192.

8 (4) Nothing in ORS 433.441 to 433.452 limits the authority of the Governor to declare a state  
9 of emergency under ORS 401.165. If a state of emergency is declared as authorized under ORS  
10 401.165, the Governor may implement any action authorized by ORS 433.441 to 433.452.

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

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

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

18 *[(6)]* (7) When real or personal property is taken under power granted by this section, the owner  
19 of the property shall be entitled to reasonable compensation from the state.

20 **SECTION 5. Any states of emergency that are in effect on the effective date of this 2022  
21 Act terminate 30 days after the effective date of this 2022 Act. Such states of emergency  
22 may be extended as set forth in ORS 401.204, as amended by section 2 of this 2022 Act. For  
23 purposes of such extensions, states of emergency that are in effect on the effective date of  
24 this 2022 Act are deemed to be first declared on the effective date of this 2022 Act.**

25 **SECTION 6. This 2022 Act being necessary for the immediate preservation of the public  
26 peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect  
27 on its passage.**

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