

ARIZONA STATE SENATE

RESEARCH STAFF



TO: MEMBERS OF THE SENATE
GOVERNMENT COMMITTEE

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DATE: March 27, 2023

SUBJECT: Strike everything amendment to H.B. 2545, relating to public health emergency; sovereignty; limitations

Purpose

Prohibits the state and its political subdivisions from using any personnel or financial resources to enforce, administer or cooperate with a public health emergency order based on an agreement or recommendations from an international government organization. Requires the Governor to seek approval from the Legislature to impose a public health emergency order for more than seven days.

Background

A *state of emergency* is the existence of conditions of disaster or of extreme peril to the safety of persons or property within Arizona caused by air pollution, fire, flood or floodwater, storm, epidemic, riot, earthquake or other causes except those resulting in a state of war emergency ([A.R.S. § 26-301](#)). During a state of emergency, the Governor has complete authority over all agencies of the state government and the right to exercise all police power vested in the state by the Arizona Constitution. Additionally, the Governor may direct all agencies to utilize and employ personnel, equipment and facilities for the performance of activities designed to prevent or alleviate actual or threatened damage due to the emergency. The powers granted to the Governor in relation to a state of emergency are terminated when the state of emergency is terminated either by the Governor or by concurrent resolution of the Legislature. A Governor-proclaimed state of emergency for a public health emergency is limited to 30 days and may be extended 30 days at a time, up to a total of 120 days. The state of emergency for a public health emergency is terminated after 120 days unless the state of emergency is extended by a concurrent resolution of the Legislature. The Legislature may extend the state of emergency for a public health emergency as many times as necessary by concurrent resolution, up to 30 days at a time. If a state of emergency for a public health emergency is not extended as outlined by statute, the Governor may not proclaim a new state of emergency for a public health emergency based on the same conditions without a concurrent resolution of the Legislature consenting to the new state of emergency for a public health emergency ([A.R.S. § 26-303](#)).

During a state of emergency or state of war emergency in which there is an occurrence or imminent threat of an illness or health condition caused by bioterrorism, epidemic or pandemic disease or a highly fatal infectious agent or biological toxin that poses a substantial risk of a significant number of human fatalities (public health emergency) the Department of Health Services (DHS) must coordinate all matters pertaining to the state response. During a public health emergency, DHS has primary jurisdiction, responsibility and authority for certain duties, including: 1) planning and executing the public health emergency assessment, mitigation and preparedness response and recovery of the state; 2) coordinating the response among state, local and tribal authorities; and 3) coordinating recovery operations and mitigation initiatives ([A.R.S. § 36-787](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits the state and its political subdivisions from using any personnel or financial resources to enforce, administer or cooperate with a public health emergency order based on an agreement or recommendations from an international government organization unless the order has been ratified as a treaty by the U.S. Senate, affirmed by a vote of the U.S. Congress and signed into law.
2. Authorizes the Governor to proclaim a public health emergency based on hazardous public health conditions for up to seven days.
3. Stipulates that the Governor proclaimed public health emergency may last longer than seven days only on a two-thirds vote of each chamber of the Legislature.
4. Prohibits the Governor from imposing any policy or using a public health emergency to require lockdowns or mandate business closures.
5. Exempts, from the prohibition on lockdowns and mandated business closures, a case of:
 - a) a biological or chemical weapons attack carried out against Arizona or its political subdivisions; or
 - b) a natural disaster that results in significant adverse public health effect due to toxic contamination, the proliferation of raw sewage or other severe disaster-related health effects.
6. Specifies that the exemption from the lockdown and mandated business closures is limited to the precise area of impact and prohibits the lockdown or mandate from lasting longer than seven days.
7. Requires, after seven days, a two-thirds vote in both chambers of the Legislature to reissue the temporary authority relating to lockdowns.
8. Prohibits state or county officials from implementing criminal penalties against individuals or citizens who violate the prohibition relating to lockdowns or mandated business closures.
9. Stipulates that after seven days, if the Governor wishes to extend the duration of a proclaimed public health emergency, a two-thirds vote of each chamber of the Legislature is required for each subsequent seven-day extension of a proclaimed public health emergency.
10. Stipulates that if the Legislature does not extend the proclaimed public health emergency, the Governor may not proclaim a new public health emergency arising out of the same conditions for which the terminated public health emergency was proclaimed.
11. Requires the Governor's request for a seven-day extension of an emergency proclamation to be provided to the Legislature at least three days before the end of the current emergency proclamation.

12. Prohibits the Governor from proclaiming a new public health emergency arising out of the same conditions for which the terminated public health emergency was proclaimed.
13. Defines *emergency* as an urgent, sudden and serious event or an unforeseen change in circumstances that:
 - a) necessitates immediate action to remedy harm or avert imminent danger to life, health or property; and
 - b) may involve governmental action beyond that authorized or contemplated by existing law because governmental inaction for the period required to amend the law to address the event would likely result in immediate and irrevocable harm to the citizens or the environment of Arizona.
14. Defines *international governmental organization* as an organization with a membership of countries that determine the way the organization operates, votes and manages funding.
15. Specifies that an international governmental organization includes any agency or bureaucratic subdivision associated with the parent organization.
16. Designates this legislation as the *Preventing International Influence on Public Health Emergencies Act of 2023*.
17. Contains a severability clause.
18. Becomes effective on the general effective date.

STRIKER MEMO

H.B. 2545

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