

SENATE, No. 1200

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 31, 2022

Sponsored by:

Senator DECLAN J. O'SCANLON, JR.

District 13 (Monmouth)

Senator VIN GOPAL

District 11 (Monmouth)

Co-Sponsored by:

**Senators Testa, Durr, Schepisi, A.M.Bucco, Corrado, Holzapfel, Stanfield,
Oroho, Pennacchio, Singer, Thompson, Bramnick, Connors and Polistina**

SYNOPSIS

Permits Legislature to terminate certain declarations by Governor for state of emergency or public health emergency and limits duration of such declarations unless Legislature approves extension.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/14/2022)

1 AN ACT concerning the Governor's declarations under certain
2 emergencies, and supplementing P.L.1942, c.251 (C.App.A:9-33
3 et seq.) and P.L.2005, c.222 (C.26:13-1 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. a. A state of emergency declaration issued by the Governor
9 pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.) may be
10 terminated by the Legislature by concurrent resolution if the
11 resolution receives a two-thirds affirmative vote of the authorized
12 membership of each House of the Legislature.

13 A state of emergency declaration issued by the Governor
14 pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.) shall terminate
15 automatically 60 days after the date of issuance unless an extension
16 is authorized by the Legislature. The Legislature may authorize,
17 after a notice required in subsection e. of this section is received, as
18 many extensions of not less than 30 days, but not more than 90
19 days, by concurrent resolution as receive a majority vote of the
20 authorized membership of each House of the Legislature.

21 b. The Governor shall not issue for the same emergency a
22 declaration to the same or substantially same effect as one that has
23 been terminated pursuant to subsection a. of this section or section 3
24 of this act, P.L. , c. (C.)(pending before the Legislature as this
25 bill), except in accordance with a law that permits the issuance of
26 another declaration specifically for that emergency.

27 c. The Legislature may conduct the vote on any concurrent
28 resolution specified in this section or in section 3 of this act, P.L. ,
29 c. (C.)(pending before the Legislature as this bill), by any
30 means it deems necessary and appropriate, including, but not
31 limited to, in person, by teleconference, and remotely by electronic
32 means.

33 d. For the purpose of this section, "same emergency" means the
34 initial event or events that gave rise to the emergency declaration
35 that has been terminated, and any event that occurs subsequent to
36 the initial event or events as a direct result, continuation, or
37 consequence of the initial event or events or the origin of which can
38 be traced directly to the initial event or events.

39 e. The Governor shall notify the Legislature in writing of the
40 need for an extension of any state of emergency declaration issued
41 pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.) at least seven
42 business days before an extension is authorized by the Legislature
43 pursuant to subsection a. of this section. The notice shall provide
44 information on the need for the extension of such declaration and
45 the threat to the public health or safety that requires the extension.

46 When notice cannot be given at least seven business days before
47 an extension is authorized by the Legislature, the notice shall be
48 given by the Governor as soon as possible, but not later than at least

1 24 hours before the extension is authorized, and the notice shall
2 include an explanation of why the notice could not have been given
3 at least seven days before the extension.

4 f. The Governor shall receive and publish in the New Jersey
5 Register any comments from the chairs and ranking minority
6 members of the relevant standing reference committees of the
7 Legislature on any notice given in accordance with subsection e. of
8 this section. The publication shall include a response from the
9 Executive Branch. The comments may be received before or after
10 an extension is granted pursuant to this act, P.L. , c. (pending
11 before the Legislature as this bill), and shall not affect the validity
12 thereof.

13 g. If the Governor fails to provide the notice required by
14 subsection e. of this section for an extension, the state of emergency
15 declaration shall terminate unless an extension of the declaration is
16 approved, after the notice required in subsection e. of this section is
17 received, by the Legislature by concurrent resolution that receives a
18 majority vote of the authorized membership of each House of the
19 Legislature.

20 h. This section shall not apply to any declaration:

21 (1) rescinding an order, rule, or regulation issued pursuant to
22 P.L.1942, c.251 (C.App.A:9-33 et seq.);

23 (2) applying exclusively to any or all of the executive and
24 administrative offices, departments, and instrumentalities of the
25 Executive Branch of State government; or

26 (3) issued under the authority of the Governor as the
27 Commander-in-Chief of all the military and naval forces of the
28 State.

29

30 2. a. A public health emergency declaration issued by the
31 Governor pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) may be
32 terminated by the Legislature by concurrent resolution if the
33 resolution receives a two-thirds affirmative vote of the authorized
34 membership of each House of the Legislature.

35 A public health emergency declaration issued by the Governor
36 pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) may be renewed by
37 the Governor for only one additional period of 30 days and the
38 declaration then shall terminate automatically unless an extension is
39 authorized by the Legislature. The Legislature may authorize, after
40 a notice required in subsection e. of this section is received, as
41 many extensions of not less than 30 days, but not more than 90
42 days, by concurrent resolution as receive a majority vote of the
43 authorized membership of each House of the Legislature.

44 b. The Governor shall not issue for the same emergency a
45 declaration to the same or substantially same effect as one that has
46 been terminated pursuant to subsection a. of this section or section 3
47 of this act, P.L. , c. (C.)(pending before the Legislature as this

1 bill), except in accordance with a law that permits the issuance of
2 another declaration specifically for that emergency.

3 c. The Legislature may conduct the vote on any concurrent
4 resolution specified in this section or in section 3 of this act, P.L. ,
5 c. (C.)(pending before the Legislature as this bill), by any
6 means it deems necessary and appropriate, including, but not
7 limited to, in person, by teleconference, and remotely by electronic
8 means.

9 d. For the purpose of this section, “same emergency” means the
10 initial event or events that gave rise to the emergency declaration
11 that has been terminated, and any event that occurs subsequent to
12 the initial event or events as a direct result, continuation, or
13 consequence of the initial event or events or the origin of which can
14 be traced directly to the initial event or events.

15 e. The Governor shall notify the Legislature in writing of the
16 need for an extension of any public health emergency declaration
17 issued pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) at least seven
18 business days before an extension is authorized by the Legislature
19 pursuant to subsection a. of this section. The notice shall provide
20 information on the need for the extension of such declaration and
21 the threat to the public health or safety that requires the extension.

22 When notice cannot be given at least seven business days before
23 an extension is authorized by the Legislature, the notice shall be
24 given by the Governor as soon as possible, but not later than at least
25 24 hours before the extension is authorized, and the notice shall
26 include an explanation of why the notice could not have been given
27 at least seven days before the extension.

28 f. The Governor shall receive and publish in the New Jersey
29 Register any comments from the chairs and ranking minority
30 members of the relevant standing reference committees of the
31 Legislature on any notice given in accordance with subsection e. of
32 this section. The publication shall include a response from the
33 Executive Branch. The comments may be received before or after
34 an extension is granted pursuant to this act, P.L. , c. (pending
35 before the Legislature as this bill), and shall not affect the validity
36 thereof.

37 g. If the Governor fails to provide the notice required by
38 subsection e. of this section for an extension, the public health
39 emergency declaration shall terminate automatically unless an
40 extension of the declaration is approved, after the notice required in
41 subsection e. of this section is received, by the Legislature by
42 concurrent resolution that receives a majority vote of the authorized
43 membership of each House of the Legislature.

44 h. This section shall not apply to any declaration:

45 (1) rescinding an order, rule, or regulation issued pursuant to
46 P.L.2005, c.222 (C.26:13-1 et seq.);

1 (2) applying exclusively to any or all of the executive and
2 administrative offices, departments, and instrumentalities of the
3 Executive Branch of State government; or

4 (3) issued under the authority of the Governor as the
5 Commander-in-Chief of all the military and naval forces of the
6 State.

7

8 3. a. Any state of emergency declaration issued by the Governor
9 pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.) and any public
10 health emergency declaration issued by the Governor pursuant to
11 P.L.2005, c.222 (C.26:13-1 et seq.) to address the COVID-19
12 pandemic or any other emergency that is in effect on the effective
13 date of this act, P.L. , c. (pending before the Legislature as this
14 bill), and:

15 (1) that has been in effect for more than 60 days as of that
16 effective date, or

17 (2) that has been in effect for 60 days or less but was issued for
18 the same emergency as the term is defined in sections 1 and 2 of
19 this act and has the same or substantially the same effect as a
20 declaration that was issued more than 60 days prior to the effective
21 date,

22 shall terminate automatically on the effective date of this act
23 unless, on the day that this act has passed both Houses of the
24 Legislature, or has passed both Houses of the Legislature after
25 amendments recommended by the Governor have been made to the
26 act or after objections to the bill have been received from the
27 Governor, whichever occurs later, a concurrent resolution to extend
28 the state of emergency declaration or public health emergency
29 declaration, or both, for not less than 30 days, but not more than 90
30 days, receives a majority vote of the authorized membership of each
31 House of the Legislature.

32 If a concurrent resolution authorizes an extension of either or
33 both declarations, any additional extensions shall be authorized or
34 permitted only in accordance with sections 1 and 2 of this act,
35 P.L. , c. (C.)(pending before the Legislature as this bill).

36 b. Except as provided in subsection a. of this section, sections 1
37 and 2 of this act, P.L. , c. (C.)(pending before the
38 Legislature as this bill), shall apply to any state of emergency
39 declaration or public health emergency declaration issued after the
40 effective date of this act or issued within 60 days prior to the
41 effective date of this act.

42

43 4. Nothing in this act, P.L. , c. (pending before the Legislature
44 as this bill), shall be construed as limiting the authority of the
45 Governor to designate a state of emergency as may be authorized
46 under the annual appropriations act, for the sole and limited purpose
47 of establishing the eligibility of the State to receive federal funds,
48 provided, however, no such emergency declaration shall under any

1 circumstances serve as the basis for invoking any authority or
2 powers set forth in P.L.1942, c.251 (C.App.A:9-33 et seq.) or
3 P.L.2005, c.222 (C.26:13-1 et seq.).

4
5 5. This act shall take effect immediately.

6
7
8 STATEMENT

9
10 This bill provides for the termination of a state of emergency
11 declaration issued by the Governor pursuant to P.L.1942, c.251
12 (C.App.A:9-33 et seq.) or a public health emergency declaration
13 issued pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) by the
14 Legislature by concurrent resolution if the resolution receives a
15 two-thirds affirmative vote of the authorized membership of each
16 House of the Legislature. Also, the bill limits the duration of a
17 state of emergency to 60 days after the date of issuance unless an
18 extension is authorized by the Legislature, and limits a public health
19 emergency declaration to a total of 60 days (the initial 30 day
20 duration and one 30-day renewal by the Governor as provided by
21 current law). The bill permits the Legislature to authorize, after a
22 notice required in this bill is received, an extension of the state of
23 emergency declaration or public health emergency declaration, with
24 as many extensions of not less than 30 days, but not more than 90
25 days, by concurrent resolution that receives a majority vote of the
26 authorized membership of each House of the Legislature.

27 The bill prohibits the Governor from issuing for the same
28 emergency a declaration to the same or substantially same effect as
29 one terminated pursuant to this bill, except in accordance with a law
30 that permits the issuance of another declaration specifically for that
31 emergency.

32 The bill permits the Legislature to conduct the vote on any
33 concurrent resolution specified in the bill by any means it deems
34 necessary and appropriate, including, but not limited to, in-person,
35 teleconference, and remotely by electronic means.

36 For the purpose of this bill, "same emergency" means the initial
37 event or events that gave rise to the emergency declaration that has
38 been terminated, and any event that occurs subsequent to the initial
39 event or events as a direct result, continuation, or consequence of
40 the initial event or events or the origin of which can be traced
41 directly to the initial event or events.

42 The bill requires the Governor to notify the Legislature in
43 writing of the need for an extension of any state of emergency
44 declaration or public health emergency declaration at least seven
45 business days before an extension is authorized by the Legislature
46 pursuant to this bill. The notice will provide information on the
47 need for the extension of such declaration and the threat to the
48 public health or safety that requires the extension.

1 When notice cannot be given at least seven business days before
2 an extension is authorized by the Legislature, the notice has to be
3 given by the Governor as soon as possible, but not later than at least
4 24 hours before the extension is authorized, and the notice has to
5 include an explanation of why the notice could not have been given
6 at least seven days before the extension.

7 Under the bill, the Governor will receive and publish in the New
8 Jersey Register any comments from the chairs and ranking minority
9 members of the relevant standing reference committees of the
10 Legislature on any notice given in accordance with this bill. The
11 publication is to include a response from the Executive Branch.

12 If the Governor fails to provide the notice required by this bill
13 for an extension, the state of emergency declaration or public health
14 emergency declaration will be terminated unless an extension of the
15 declaration is approved, after the notice required in the bill is
16 received, by the Legislature by concurrent resolution that receives a
17 majority vote of the authorized membership of each House of the
18 Legislature.

19 The provisions of the bill do not apply to any state of emergency
20 declaration or public health emergency declaration:

21 (1) rescinding an order, rule, or regulation issued pursuant to
22 P.L.1942, c.251 (C.App.A:9-33 et seq.) or to P.L.2005, c.222
23 (C.26:13-1 et seq.);

24 (2) applying exclusively to any or all of the executive and
25 administrative offices, departments, and instrumentalities of the
26 Executive Branch of State government; or

27 (3) issued under the authority of the Governor as the
28 Commander-in-Chief of all the military and naval forces of the
29 State.

30 The bill provides that any state of emergency declaration issued
31 by the Governor and any public health emergency declaration
32 issued by the Governor to address the COVID-19 pandemic or any
33 other emergency that is in effect on the effective date of the bill,
34 and

35 (1) that has been in effect for more than 60 days as of that
36 effective date, or

37 (2) that has been in effect for 60 days or less but was issued for
38 the same emergency as the term is defined in the bill and has the
39 same or substantially the same effect as a declaration that was
40 issued more than 60 days prior to the effective date,

41 will terminate automatically on the effective date of this bill
42 unless, on the day that this bill has passed both Houses of the
43 Legislature, or has passed both Houses of the Legislature after
44 amendments recommended by the Governor have been made to the
45 act or after objections to the bill have been received from the
46 Governor, whichever occurs later, a concurrent resolution to extend
47 the state of emergency declaration or public health emergency
48 declaration, or both, for not less than 30 days, but not more than 90

1 days, receives a majority vote of the authorized membership of each
2 House of the Legislature.

3 The termination and extension provisions of the bill will apply to
4 any state of emergency declaration or public health emergency
5 declaration issued pursuant to P.L.1942, c.251 (C.App.A:9-33 et
6 seq.) or P.L.2005, c.222 (C.26:13-1 et seq.) after the effective date
7 or within 60 days prior to the effective date of this bill. Any other
8 emergency declaration issued pursuant to P.L.1942, c.251
9 (C.App.A:9-33 et seq.) or P.L.2005, c.222 (C.26:13-1 et seq.) that is
10 in effect on the date of enactment will automatically terminate upon
11 enactment unless the Legislature authorizes an extension by
12 concurrent resolution.

13 The bill provides that it is not to be construed as limiting the
14 authority of the Governor to designate a state of emergency as may
15 be authorized under the annual appropriations act, for the sole and
16 limited purpose of establishing the eligibility of the State to receive
17 federal funds. However, no such emergency declaration may under
18 any circumstances serve as the basis for invoking any authority or
19 powers set forth in P.L.1942, c.251 (C.App.A:9-33 et seq.) or
20 P.L.2005, c.222 (C.26:13-1 et seq.).