



Emergency Response Amendments

A Summary of 2nd Sub. S.B. 195

February 23, 2021

Purpose of Bill

- Create checks on executive emergency powers without hindering rapid emergency response
- Apply state policies to local level in relation to health departments, chief executives, and legislative bodies

Checks on Broad, Restrictive Orders

- Places checks on broad, restrictive orders issued by public health officials through the defined term "order of constraint" which are emergency actions taken by the state or local health departments that:
 - Apply broadly to groups or places; and
 - Enforce isolations, quarantines or stay at home orders, exercise control over public gatherings or property, requires an individual do certain things, or closes schools, theaters, or other gathering places (lines 461-474, 260, 673-687).
- The Legislature may terminate:
 - orders of constraint/restriction issued by state or local health departments (lines 314-315, 370-371, 645-650)
 - a local emergency declaration (line 1510)
 - after 30 days of a public health emergency:
 - an order of constraint issued by a local health department (lines 548-551, 858-859, 935-936)
 - or emergency action of a city or county chief executive (lines 1507-1509).

Note: The Legislature already has this power in relation to an order issued by the governor.
- County legislative body may terminate:
 - an order of constraint or restriction issued by a local health department (lines 316-317, 372-373, 552-553, 647-649, 861-862, 938-940, 944-946)
 - A local emergency declaration issued by a local chief executive or a local health department (lines 833-834, 850-851, 1377-1378)
- Requires a local health department to provide notice to a county legislative body before declaring a public health emergency or issuing an order of constraint unless necessary to prevent loss of life, in which case notice may be provided afterward (lines 805-825)
- Prohibits a local health department from issuing an order of constraint without approval of the relevant county chief executive unless necessary to prevent loss of life, in which case approval may be provided afterward (lines 856-877, 933-957)
- Prohibits UDOH from issuing an order of constraint without notifying legislative leadership in the same way the governor is currently required (lines 509-512).

Nullification of Executive Powers

In emergencies lasting longer than 30 days, allows the Legislature to identify and nullify individual emergency powers of the governor, the Division of Emergency Management, or the chief executive of a political subdivision (lines 1302-1318)

Expiration of Emergencies

- Prohibits the governor, state or local health departments, or local chief executive from continuing an emergency after it has expired (lines 535-538, 545-547, 840-843, 850-853, 1281-1284, 1287-1290, 1384-1386, 1393-1396).
 - Specifies that a public health emergency, state emergency, and local emergency expires the earliest of the following:
 - When the person that issued the emergency determines the need has passed;
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- When terminated by the Legislature (public health emergency/state emergency), local legislative body (local emergency or public health emergency), or local chief executive (public health emergency);
- 30 days after it is issued; or
- The date designated by the Legislature for a state/public health emergency, or local legislative body for a local emergency.
(lines 522-530, 826-834, 1267-1273, 1368-1378)

Unilateral Extension of Emergencies

- After an emergency has expired, allows the relevant state or a local health department, governor, or a local chief executive to re-declare the emergency without legislative body approval in "exigent circumstances" (lines 539-544, 844-849, 1281-1286, 1387-1392). Exigent circumstances occur when there are increased and imminent threats to public health or safety that were not known and could not have been known when the original emergency expired (lines 450-456, 1117-1123).
- Requires the state and local departments of health to notify the Legislature or county legislative body respectively before unilaterally re-declaring an emergency (lines 540, 845-856)

Legislative Review of Continuing Emergencies

- If the governor or the Utah Department of Health needs to extend an emergency, they must notify the president/speaker at least 10 days before the expiration of the emergency (lines 554-559, 973-978, 1565-1570).
- If a local health department needs to extend an emergency, it must notify the county legislative body at least 10 days before the expiration of the emergency (lines 560-5565)
- For state emergencies or state public health emergencies, the president/speaker poll the Legislature regarding whether to extend the emergency (lines 569-570, 1576-1577).
- Newly created Legislative Emergency Response Committee may convene to review the first 30-day extension but is required to convene to before a second or subsequent 30-day extension (lines 566-571, 1579-1582).
- To get a broad cross-section of the Legislature, the Legislative Emergency Response Committee is composed of the current makeup of the Executive Appropriations Committee, with 4-6 additional appointments by the speaker and president each. Additional members appointed with respect to minority/majority and House/Senate balances (lines 1573-1560).
- Committee convenes to receive public comment, receive expert testimony, and recommend whether to extend the emergency (lines 576-558, 1583-1591).

Religious Protections

Prohibits the governor, the state or local departments of health, or a local chief executive from placing a more restrictive order of constraint on a religious gathering than on other public gatherings (lines 586-601, 881-896, 958-972, 1593-1609).

Limitations on Penalties

- Reduces the maximum fine that can be levied for violation of a public health order from \$10,000 to \$5,000 and clarifies the fine is applicable only to an association or corporation (lines 393-400)
- Creates a similar \$150 maximum fine for individuals and allows for the penalties to be waived (lines 401-408)
- Makes it so a fine can only be levied against the same person once in a week unless the violation is willful or reckless and is likely to result in a serious threat to public health (lines 409-417)

Administrative Rules Review

Provides a review process for the Administrative Rules Review Committee to review and provide recommendations on administrative rules and other executive actions made under emergency procedures (lines 1639-1640, 1650-1654, 1719-1721).



Emergency Response Amendments

Timeline for 2nd Sub. S.B. 195

February 23, 2021

The following timeline applies the provisions 2nd Sub. S.B. 195, Emergency Response Amendments, to the process of renewing or terminating a state of emergency. Most provisions of the bill and this timeline apply on both the state and local level and apply similarly to emergencies declared by a chief executive or a health department. However, some provisions apply only on a certain level of government or to a specific type of person. For clarification on differences, consult the fuller summary of the legislation.

