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H.P. 815 House of Representatives, March 22, 2021

An Act To Limit the Governor's Emergency Powers by Requiring a Two-thirds Vote of the Legislature To Continue an Emergency after 90 Days

(EMERGENCY)

Received by the Clerk of the House on March 18, 2021. Referred to the Committee on State and Local Government pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

ROBERT B. HUNT
Clerk

Presented by Representative LEMELIN of Chelsea.

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Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, under Maine law, a declaration of a state of emergency may be issued in 30-day increments; and

Whereas, the Governor proclaimed a state of emergency on March 15, 2020 to authorize the use of emergency powers related to the COVID-19 pandemic; and

Whereas, the Governor issued extensions of the state of emergency on April 14, 2020, May 13, 2020, June 10, 2020, July 8, 2020, August 5, 2020, September 2, 2020, September 30, 2020, October 29, 2020 and November 24, 2020 and issued the 10th extension on December 22, 2020; and

Whereas, to ensure the Legislature's oversight of the Governor's authority to extend a state of emergency and the Governor's powers during a state of emergency, this Act requires the Governor to convene the Legislature if a state of emergency or an order or rule issued pursuant to the state of emergency is to be in effect for longer than 90 days; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 37-B MRSA §742, sub-§1, ¶E is enacted to read:

E. If an order or rule issued by the Governor, pursuant to the powers granted in paragraph C, is to be in effect for longer than 90 days, the Governor shall, before the 80th day following the issuance of the order or rule, convene the Legislature, and the Legislature must, by a 2/3 vote in each House, vote to extend the Governor's authority to extend that order or rule.

Sec. 2. 37-B MRSA §743, sub-§2, as enacted by PL 1983, c. 594, §34, is amended to read:

2. Limitation. ~~No~~ A state of emergency may not continue for longer than 30 days unless renewed by the Governor. If the state of emergency is to be in effect for longer than 90 days, the Governor shall, before the 80th day following the initial declaration of the state of emergency, convene the Legislature, and the Legislature must, by a 2/3 vote in each House, vote to extend the state of emergency. If the Legislature does not vote to extend the state of emergency, the Governor may not declare a similar, subsequent state of emergency. The Legislature, by joint resolution, may terminate a state of emergency at ~~anytime~~ any time. ~~Thereupon~~ Upon the Legislature's vote to not extend a state of emergency or the Legislature's termination of a state of emergency, the Governor shall issue an executive proclamation ending the state of emergency.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill requires the Governor to convene the Legislature if a declared state of emergency is to be in effect for longer than 90 days. If the Legislature does not, by a 2/3 vote in each House, vote to extend the state of emergency, the Governor may not declare a similar, subsequent state of emergency.

The bill also requires the Governor to convene the Legislature if, after a state of emergency is declared, an order or rule issued by the Governor is to be in effect for longer than 90 days. The Legislature must, by a 2/3 vote in each House, vote to extend the Governor's authority to extend that order or rule.