State of South Carolina

Executive Department

FILED

APR 16 2020

Mark Hammond
SECRETARY OF STATE

Office of the Governor

EXECUTIVE ORDER NO. 2020-25

WHEREAS, on March 13, 2020, the undersigned issued Executive Order No. 2020-08, declaring a State of Emergency based on a determination that the 2019 Novel Coronavirus ("COVID-19") posed an imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5207 ("Stafford Act"); and

WHEREAS, on March 13, 2020, the President of the United States also declared that the COVID-19 pandemic in the United States constitutes a national emergency, pursuant to Sections 201 and 301 of the National Emergencies Act, 50 U.S.C. §§ 1601 *et seq.*, and consistent with Section 1135 of the Social Security Act, 42 U.S.C. § 1320b-5, as amended, retroactive to March 1, 2020; and

WHEREAS, in addition to declaring a State of Emergency on March 13, 2020, the undersigned also issued Executive Order Nos. 2020-07, 2020-09, 2020-10, 2020-11, 2020-12, 2020-13, and 2020-14, initiating and directing various emergency measures to address the significant public health, economic, and other impacts associated with COVID-19 and to mitigate the resulting burdens on healthcare providers, individuals, and businesses in the State of South Carolina; and

WHEREAS, on March 24, 2020, the undersigned requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act, and on March 27, 2020, the President of the United States granted the undersigned's request and declared that such a major disaster exists and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

WHEREAS, on March 28, 2020, the undersigned issued Executive Order No. 2020-15, declaring a new State of Emergency based on a determination that COVID-19 posed an actual and ongoing public health threat to the State of South Carolina and extending the provisions of the aforementioned Orders for the duration of the State of Emergency, unless otherwise modified, amended, or rescinded; and

WHEREAS, in further proactively preparing for and promptly responding to the ongoing and evolving emergency, the undersigned subsequently issued Executive Order Nos. 2020-16, 2020-17, 2020-18, 2020-19, 2020-21, and 2020-22, initiating and directing additional extraordinary measures deemed necessary and appropriate to cope with the public health threats and dangers and to address the resulting strain on healthcare resources, the economic consequences for individuals and businesses, and the various other significant impacts associated with COVID-19; and

WHEREAS, on April 12, 2020, the undersigned issued Executive Order No. 2020-23, declaring an additional State of Emergency based on new facts and circumstances and a determination that the accelerated spread of COVID-19 throughout the State posed a different and distinct public health threat to the State of South Carolina and extending provisions of certain of the aforementioned Orders for the duration of the State of Emergency, unless otherwise modified, amended, or rescinded; and

WHEREAS, section 1-3-430 of the South Carolina Code of Laws, as amended, provides that when a state of emergency has been declared, the undersigned "may further, cope with such threats and danger, order and direct any person or group of persons to do any act which would in his opinion prevent or minimize danger to life, limb or property, or prevent a breach of the peace; and he may order any person or group of persons to refrain from doing any act or thing which would, in his opinion, endanger life, limb or property, or cause, or tend to cause, a breach of the peace, or endanger the peace and good order of the State or any section or community thereof, and he shall have full power by use of all appropriate available means to enforce such order or proclamation"; and

WHEREAS, pursuant to section 1-3-460 of the South Carolina Code of Laws, as amended, the foregoing and other emergency authority is "supplemental to and in aid of powers now vested in the Governor under the Constitution, statutory laws[,] and police powers of the State"; and

WHEREAS, in accordance with section 25-1-440 of the South Carolina Code of Laws, as amended, when an emergency has been declared, the undersigned is "responsible for the safety, security, and welfare of the State and is empowered with [certain] additional authority to adequately discharge this responsibility," to include issuing, amending, and rescinding "emergency proclamations and regulations," which shall "have the force and effect of law as long as the emergency exists"; and

WHEREAS, pursuant to section 25-1-440 of the South Carolina Code of Laws, when an emergency has been declared, the undersigned is further authorized to "suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with

the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency"; and

WHEREAS, in addition to the foregoing, section 25-1-440 of the South Carolina Code of Laws authorizes the undersigned, during a declared emergency, to "transfer the direction, personnel, or functions of state departments, agencies, and commissions, or units thereof, for purposes of facilitating or performing emergency services as necessary or desirable" and to "compel performance by elected and appointed state, county, and municipal officials and employees of the emergency duties and functions assigned them in the State Emergency Plan or by Executive Order"; and

WHEREAS, the undersigned is further authorized, pursuant to section 25-1-440 of the South Carolina Code of Laws, to "direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery; to prescribe routes, modes of transportation, and destination in connection with evacuation; and to control ingress and egress at an emergency area, the movement of persons within the area, and the occupancy of premises therein"; and

WHEREAS, in accordance with section 16-7-10(A) of the South Carolina Code of Laws, as amended, "[i]n any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to: violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation; congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer"; and

WHEREAS, it is axiomatic that "[t]he health, welfare, and safety of the lives and property of the people are beyond question matters of public concern, and reasonable regulations and laws designed to preserve and protect the same are clearly contained in the police power inherent in the sovereign," 1980 S.C. Op. Att'y Gen. 142 (Sept. 5, 1980); and

WHEREAS, the State of South Carolina must continue to utilize extraordinary measures and deploy substantial resources to meet the unique threat posed by COVID-19 and must remain flexible to account for the evolving nature and scope of this unprecedented public health emergency; and

WHEREAS, for the aforementioned and other reasons, and in recognition and furtherance of the undersigned's responsibility to provide for and ensure the health, safety, security, and welfare of the people of the State of South Carolina, the undersigned has determined that the ongoing, evolving, and accelerating public health threat posed by COVID-19 requires additional proactive action by the State of South Carolina and the implementation, extension, or modification of additional extraordinary measures to cope with the existing or anticipated situation, to include mitigating the significant economic and other impacts and burdens on individuals, families, and businesses and providing appropriate administrative and regulatory flexibility and relief to facilitate the same.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby order and direct as follows:

Section 1. Modification of Emergency Restrictions for Public Waters to Account for Home or Work Order

To facilitate authorized outdoor exercise and recreational activities in accordance with the provisions of Section 1 of Executive Order No. 2020-21 (Home or Work Order), as extended by Executive Order No. 2020-23, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. I hereby modify and amend the provisions of Section 1 of Executive Order No. 2020-16 (Emergency Access Restrictions for Public Beaches and Waters), as extended by Executive Order No. 2020-23, to authorize the managing or operating authority of any public boat ramp or boat landing closed pursuant to Section 1(C) of Executive Order No. 2020-16 to reopen, in whole or in part, any such public boat ramp or boat landing, to include any adjacent or associated public parking lots, effective Friday, April 17, 2020, at 12:00 p.m., for the purpose of launching and retrieving boats on the public waters of this State to facilitate authorized and permissible outdoor exercise and recreational activities in accordance with the provisions of Section 1(E) of Executive Order No. 2020-21, and subject to Executive Order No. 2020-13, for the duration of the State of Emergency, unless otherwise modified, amended, or rescinded by subsequent Order. Public piers, docks, and wharfs providing public access to the public waters of this State shall remain closed. Notwithstanding the foregoing, I hereby authorize the managing or operating authority of any public boat ramp or boat landing to close, in whole or in part, or otherwise restrict public access to any such public boat ramp or boat landing, to include any adjacent or associated public parking lots or facilities, if it is determined that such action is necessary to preserve or protect public health. Subject to any additional or supplemental clarification, guidance, rules, regulations, or restrictions issued, provided, or promulgated, or which may be issued, provided, or promulgated, by the South Carolina Department of Natural Resources ("DNR"), the beaching or rafting of boats, whether on a sandbar, lakeshore, riverbank, or island, shall remain prohibited for the duration of the State of Emergency. Vessels must remain underway at all times unless exigent circumstances exist. Anchoring to fish is allowed; however, rafting is prohibited under all circumstances. As previously authorized by Section 1(C) of Executive Order No. 2020-16, individuals possessing a current, valid commercial fishing license or permit may continue to utilize or rely upon public piers, docks, wharfs, boat ramps, or boat landings in connection with commercial fishing activities.

B. In accordance with Section 1 of Executive Order No. 2020-21, any and all residents and visitors of the State of South Carolina are required to limit social interaction, practice "social distancing" in accordance with Centers for Disease Control and Prevention ("CDC") guidance, and take every possible precaution to avoid potential exposure to, and to slow the spread of, COVID-19, and shall limit their movements outside of their Residence, as defined therein, except as expressly authorized. Pursuant to Section 1(E) of Executive Order No. 2020-21, individuals are permitted to "[e]ngag[e] in outdoor exercise or recreational activities, provided that a minimum

distance of six (6) feet is maintained during such activities between all persons who are not occupants of the same Residence."

C. Notwithstanding the foregoing, individuals are still subject to the provisions of prior and future Orders issued by the undersigned in connection with the State of Emergency, to include Executive Order No. 2020-13, as extended by Executive Order No. 2020-23, which expressly authorizes any and all law enforcement officers of the State, or any political subdivision thereof, to prohibit or disperse any congregation or gathering of people, unless authorized or in their homes, in groups of three (3) or more people, if any such congregation or gathering is deemed to pose, or could pose, a threat to public health.

D. I further expressly authorize DNR to provide or issue any necessary and appropriate additional or supplemental guidance, rules, regulations, or restrictions regarding the application of this Section or to otherwise to provide clarification regarding the same, through appropriate means, without the need for further Orders.

E. Except as expressly provided herein, this Section shall not be construed to modify, amend, or otherwise alter the provisions of any prior or future Orders issued by the undersigned in connection with the State of Emergency and does not repeal, by implication or otherwise, the terms and provisions of Section 1 of Executive Order No. 2020-21 (Home or Work Order) or Section 1 of Executive Order No. 2020-13 (Authorizing Law Enforcement to Maintain Order, Ensure Public Safety, and Preserve Public Health During the State of Emergency), which shall remain in full force and effect in accordance with their respective terms unless and until otherwise modified, amended, or rescinded by subsequent Order.

Section 2. Modification and Extension of Emergency Measures for Unemployment Claims and Benefits

To prepare for and further respond to the significant economic impacts associated with COVID-19, pursuant to the cited authorities and other applicable law, I hereby determine, order, and direct as follows:

A. The State of South Carolina must continue to undertake and implement additional measures to prepare for and respond to the economic impacts associated with COVID-19 and to mitigate the resulting burdens on individuals and businesses. In recognition of the complexities posed by the existing and anticipated emergency circumstances, the United States Department of Labor ("DOL") issued Unemployment Insurance Program Letter No. 10-20 on March 12, 2020 ("DOL Letter No. 10-20"), providing guidance to states and state workforce agencies on various matters regarding unemployment benefits and "flexibilities related to COVID-19," and in doing so, recommended, *inter alia*, that "states should consider temporarily waiving" state-specific requirements related to waiting periods for individuals who are otherwise eligible for unemployment benefits. Accordingly, to facilitate and expedite the processing of claims submitted by eligible individuals whose employment has been impacted a result of COVID-19, and in response to DOL Letter No. 10-20's recommendation, the undersigned issued Executive Order No. 2020-11 on March 19, 2020, directing, *inter alia*, the South Carolina Department of

Employment and Workforce ("DEW") to waive application of the one-week waiting period for individuals who are otherwise eligible to receive unemployment benefits or to determine that otherwise eligible individuals submitting claims between March 15, 2020, and April 18, 2020, in response to the unique circumstances and public health threat presented by COVID-19 "cannot pursue other employment for the usual one week's waiting period and that the terms of the [applicable] statute cannot be met in such an unusual and limited circumstance," 1989 S.C. Op. Att'y Gen. 286 (Oct. 3, 1989). Subsequently, on March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), Public Law No. 116–136, Title II, Subtitle A of which provides, *inter alia*, temporary full federal funding of the first week of state unemployment insurance benefits for states that do not have a waiting week or have waived any waiting-week requirement.

B. I hereby direct DEW to waive, on a temporary basis and consistent with the aforementioned DOL guidance, application of the one-week waiting period for individuals who are otherwise eligible to receive unemployment benefits, pursuant to section 41-35-110(4) of the South Carolina Code of Laws, as amended, or alternatively, to determine that otherwise eligible individuals submitting claims in response to or associated with the unique circumstances and public health threat presented by COVID-19 "cannot pursue other employment for the usual one week's period and that the terms of the statute cannot be met in such an unusual and limited circumstance." 1989 S.C. Op. Att'y Gen. 286 (Oct. 3, 1989). If and to the extent allowed by state and federal law, I further instruct DEW to implement, interpret, and apply the foregoing directives, as necessary and appropriate, in a manner that will facilitate and expedite the processing of claims submitted by eligible individuals who have suffered an unanticipated separation from employment or reduction of hours. Subject to any additional or supplemental guidance, rules, regulations, or restrictions issued, provided, or promulgated, or which may be issued, provided, or promulgated, by DEW, and to the maximum extent permitted by state and federal law, this Section shall apply to claims submitted on or after April 19, 2020, and for the duration of the State of Emergency. Notwithstanding the foregoing, this Section shall not be construed to limit DEW's authority, to the extent allowed by state and federal law, to extend the period of any such temporary waivers or determinations to account for exigent circumstances.

Section 3. General Provisions

A. This Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of South Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

B. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Order is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this Order, as the undersigned would have issued this Order, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

C. If or to the extent that any political subdivision of this State seeks to adopt or enforce a local ordinance, rule, regulation, or other restriction that conflicts with this Order, this Order shall supersede and preempt any such local ordinance, rule, regulation, or other restriction.

D. This Order is effective immediately and shall remain in effect for the duration of the State of Emergency unless otherwise modified, amended, or rescinded by subsequent Order. Further proclamations, orders, and directives deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued orally by the undersigned and thereafter reduced to writing and published for dissemination within the succeeding 24-hour period.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 16th DAY OF APRIL, 2020.

HENRY MCMASTER
Governor

ATTEST:

MARK HAMMOND
Secretary of State