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H.P. 444	House of Representatives, March 1, 2021

An Act Regarding the Governor's Emergency Powers

(EMERGENCY)

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ROBERT B. HUNT
Clerk

Presented by Representative JOHANSEN of Monticello.
Cosponsored by Senator STEWART of Aroostook and
Representatives: QUINT of Hodgdon, STANLEY of Medway, UNDERWOOD of Presque Isle.

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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 proclamation of a state of emergency must be extended every 30 days to remain in effect; 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, November 24, 2020, December 22, 2020 and issued the 11th extension on January 19, 2021; 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 30 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, ¶A, as amended by PL 2001, c. 353, §4, is further amended to read:

A. Whenever a disaster or civil emergency exists or appears imminent, the Governor shall, by oral proclamation, declare a state of emergency in the State ~~or,~~ any section of the State or any county in which a disaster or civil emergency exists or appears imminent as long as the disaster or civil emergency has been declared by the board of commissioners for that county. If the Governor is temporarily absent from the State or is otherwise unavailable, the next person in the State who would act as Governor if the office of the Governor were vacant may, by oral proclamation, declare the fact that a civil emergency exists or appears sufficiently imminent to activate emergency plans in any or all areas of the State in accordance with this paragraph. A written copy of the proclamation must be filed with the Secretary of State within 24 hours of the oral proclamation.

Sec. 2. 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 30 days, the Governor shall, before the 30th 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. 3. 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

30 days, the Governor shall, before the 30th 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 voting 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 30 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 30 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.

The bill also limits the Governor's authority to declare a state of emergency in a county unless the county's board of commissioners has declared that a disaster or civil emergency exists.