

## RÉSUMÉ DIGEST

HB 149

2021 Regular Session

Frieman

Present law provides that a disaster, emergency, or public health emergency shall be declared by executive order or proclamation of the governor if the governor finds that a disaster or emergency has occurred or the threat thereof is imminent.

Present law also provides that the state of disaster, emergency, or public health emergency shall continue until the governor finds that the threat of danger has passed or the disaster or emergency has been dealt with to the extent that the emergency conditions no longer exist and terminates the state of disaster, emergency, or public health emergency by executive order or proclamation.

Present law provides that no state of disaster, emergency, or public health emergency may continue for longer than 30 days unless renewed by the governor.

Present law authorizes the legislature to terminate an emergency declaration of a state of disaster, emergency, or public health emergency by petition of a majority of the surviving members of *either* house of the legislature. Relative to public health emergencies, provides for the legislature to be in consultation with the public health authority (defined in present law as the secretary of the La. Dept. of Health, or his designee, and the state health officer).

Proposed law would have specified that the legislature may terminate the entire state of emergency or any section or subsection of an emergency declaration by petition signed by a majority of the members of *both* houses of the legislature. Relative to public health emergencies, would have provided for the members of both houses of the legislature to terminate the emergency by petition after consulting with the legislative fiscal office and a public health specialist with a degree from a school of public health accredited by an institutional accrediting agency recognized by the U.S. Dept. of Education. Proposed law would have required the legislative fiscal office to estimate the fiscal impact of early termination of a public health emergency or any section or subsection of the executive order relative thereto prior to the filing of a petition to terminate.

Present law provides that the petition terminating an emergency declaration may establish a period during which no other declaration of emergency may be issued. Proposed law would have limited present law to situations related to the specific state of disaster or emergency or any section or subsection of the order or proclamation that was terminated.

Proposed law would have required that the petition terminating an emergency declaration be transmitted to the clerk of the House of Representatives and the secretary of the Senate and would have required the clerk and the secretary to transmit the petition to the governor.

Proposed law would have provided that the petition terminating an emergency declaration becomes effective upon transmission of the petition to the governor.

Proposed law would have further required the clerk of the House of Representatives and the secretary of the Senate to disseminate the petition to the general public and file it with specified executive branch agencies.

( Proposed to amend R.S. 29:724(B)(2) and 768(B) )

**VETO MESSAGE:** This bill was the latest attempt by the Legislature to remedy the obvious and adjudged defects in the petition signed by some House of Representatives members last October attempting to terminate the COVID-19 public health emergency. I need not provide here how catastrophic the pandemic may have been in Louisiana had the House members been successful in terminating the emergency protective measures during some of the worst months of the third surge in Louisiana. Thankfully, the petition was not successful. As a result, the mitigation measures worked, and along with the protection provided by the ever-increasing number of vaccinations, Louisiana is now seeing the light at the end of this long, dark tunnel. I vetoed House Bill 4 of the Second Extraordinary Session of 2020 because it violated the Louisiana Constitution and would have crippled the response to the COVID-19 pandemic. I have vetoed House Bill 149 from our recently-ended session because it did not sufficiently improve the vetoed bill from last year. House Bill 149

did make one significant change from current law which demonstrates a significant constitutional infirmity in the House petition. The bill establishes that both houses of the legislature would be required to act before the petition would be effective. This is a significant change and a clear admission that the October 2020 petition, signed by members of only one chamber, was without effect. However, the current bill still has significant problems. First and foremost, it allows the Legislature to act in secret, outside of public scrutiny and in violation of Article III, Section 15 (A) of the Louisiana Constitution. In addition, the bill waters down the obligation to consult with a public health authority, thus making it more likely that any action by the Legislature would be based on the political winds rather than scientific and expert medical advice. I proposed amendments which would have remedied the issues with the bill and would have provided for a clear voice for the Legislature in checking a declared public health emergency. Those suggestions were rejected. While it is true this bill would only affect my successor as the effective date is the date of the inauguration of our next governor, I do not feel it is appropriate to tie the hands of the next governor to properly respond to a public health emergency. If the next governor feels otherwise, he or she can sign this bill at that time.