

## Emergency Clause Usage Ticks Up

*68 bills exempted from people's right of referendum in 2009*

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### Key Findings

- The legislature's use of referendum-denying emergency clauses increased from seven percent of all bills passed in 2008 to twelve percent this year – 68 bills out of 583.
- The governor vetoed three of the 68 emergency clauses.
- Despite the increase, 2009 saw the fourth lowest percentage use of the emergency clause since 1997.
- The most effective way to end the legislature's abuse of the emergency clause is a constitutional amendment creating a supermajority vote requirement for its use.

### What are Emergency Clauses?

To provide a check on the legislature, the state constitution grants the people the power to veto unwanted legislation through the use of a referendum. According to the Secretary of State, "The referendum allows citizens, through the petition process, to refer acts of the legislature to the ballot before they become law." This power applies to any bill adopted by the legislature except those that include an "emergency clause."

An emergency clause states that a bill is exempt from repeal by referendum because the bill is, "necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions." The use of the emergency clause allows bills to take effect immediately once signed by the governor.

The purpose of the emergency clause is to allow state government to respond quickly to true public emergencies, like a large-scale natural disaster or wide-spread epidemic disease. Yet over the years lawmakers have routinely abused the exemption by attaching emergency clauses to 813 bills since 1997, including 68 bills during the 2009 legislative session.

Below is a year-by-year list of how many times lawmakers have attached the emergency clause to bills since 1997.

### Emergency Clause Usage by the Legislature 1997-2009

Year	Number of bills enacted	Bills with emergency clauses	Percentage
1997	458	96	21%
1998	348	42	12%
1999	413	77	19%
2000	262	28	11%
2001	371	90	24%
2002	368	54	15%
2003	445	88	20%
2004	277	45	16%
2005	517	96	19%
2006	370	33	9%
2007	525	73	14%
2008	328	23	7%
2009	583	68	12%
<b>Total</b>	<b>5,265</b>	<b>813</b>	<b>15%</b>
<b>Average</b>	<b>405</b>	<b>63</b>	<b>16%</b>

## 2009 Legislative Emergencies

Here are some of the policy decisions from the 2009 legislative session that lawmakers believe are “necessary for the immediate preservation of the public peace, health or safety, support of the state government and its existing public institutions.”

- [HB 2122 – Reducing taxes on the newspaper industry](#)
- [HB 2362 – Raising court fees](#)
- [SB 5273 – Regulating landscape architecture](#)
- [SB 5649 – Energy efficiency in buildings](#)
- [SB 5921 – Creating the Clean Energy Leadership Initiative](#)
- [SB 6096 – Taxing “bunker fuel”](#)
- [SB 6161 – Changing state pension funding](#)
- [SB 6170 – Creating environmental tax breaks](#)

## Governor’s Emergency Clause Vetoes

In Washington, the governor has line-item veto authority over bills passed by the Legislature. This year Governor Gregoire vetoed the emergency clause from three bills before signing them into law. In 2008 the governor vetoed five emergency clauses and in 2007 ten.

Here is an excerpt from one of the governor’s veto messages, in which she explains her reasons for removing the emergency clause:

“Section 4 contains an emergency clause. An emergency clause is to be used where it is necessary for the immediate preservation of the public peace, health or safety or whenever it is essential for the support of state government. I do not believe an emergency clause is needed to implement this legislation.” ([Partial veto of HB 1002](#) – April 30, 2009)

## Conclusion

Governor’s Gregoire’s decision to strip the emergency clause from some bills that clearly do not address public emergencies is a positive development. The increased scrutiny by the public and the governor has had a measurable impact on reducing the legislature’s misuse of the emergency clause.

There is no guarantee, however, that this trend will continue. The most effective way to end the legislature’s abuse of the emergency clause is a constitutional amendment creating a supermajority vote requirement for its use. The legislature would then be prohibited from attaching an emergency clause unless the bill was approved by a 60 percent vote. Budget bills, however, could be made exempt from the supermajority vote requirement, allowing them to pass with a simple majority and not be subject to referendum.

If a true public emergency occurs that warrants denying the people their right of referendum, a 60 percent vote requirement in the legislature should not be difficult to achieve. In the case of a true emergency, the public would most likely welcome the use of the emergency clause by the legislature, recognizing it is intended to be used at just such a time. Political convenience, however, should no longer serve as a reason to deny the people their right of referendum.

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