



Requiring Legislative Oversight of Emergency Powers

Why Emergency Powers?

In an emergency, governors need broad powers to act fast. Legislative bodies inevitably take longer to assemble and act than a single executive, so they temporarily delegate their power to the executive in emergencies. But these powers are supposed to be transferred for a **limited** period of time.

For example, in Wisconsin a state of emergency cannot exceed 60 days unless it is extended by a joint resolution of the legislature, and in Minnesota, a governor must call a special session if a “peace time” emergency lasts longer than 30 days.

Legislature Should Have Role Too



When situations last for extended periods, longer term policies need to be implemented and the legislature needs to debate risks, benefits and trade-offs of various approaches. Lawmakers may end up passing the very policies the governor would prefer to see implemented, but they do it after deliberation as representatives of the people and do it in a public process.

It's the legislature, not the governor, that is charged with making law, and the governor who is charged with implementing the laws passed by the legislature.

Current Weak Statutory Oversight

National emergency powers study: “Vermont, Washington, Ohio and Hawaii are among the worst-ranking states because they bestow on their governors the sole authority to determine when and where an emergency exists, and when an emergency ceases to exist.”

HB 1029 testimony: “By outlining a consistent process for determining the extent of an emergency, the legislature can remove politics from the equation and guarantee the people an equal seat at the table. That is to say, no matter the governor or the political makeup of the legislature, the process should be the same. The constitutional principles of separation of powers and co-equal branches of government are too valuable to be cast aside, even in an emergency.”

Efforts to Restore Balance of Power

New Mexico: Rep. Daymon Ely (D-23) - “It has nothing to do with whether the governor has done an excellent job or not [with the pandemic]. It has to do with whether the Legislature should have a role.”

Hawaii: Rep. Scott Nishimoto (D-21) - “There needs to be checks. I think that is what my constituents were concerned about, that the governor has unilateral power to do things indefinitely and there is a lack of community input.”

New York: Senate Majority Leader Andrea Stewart-Cousins (D-35) - “I think everyone understands where we were back in March and where we are now. We certainly see the need for a quick response but also want to move toward a system of increased oversight, and review. The public deserves to have checks and balances.”

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Massachusetts: Sen. Diana DiZoglio (D-1) - "This is not a dictatorship. The governor has taken a top-down, authoritative approach to the COVID-19 response and as a result many residents have not been heard. It's too much for any one person and one administration to handle when dealing with emergencies of this scale and length."

Utah: Sen. Luz Escamilla (D-1) - "Politicians are beholden to their constituents. They want positions of why decisions are being made. Right now, we are not part of that process."

New York: Sen. Julia Salazar (D-18) - "Without exception, the New York State Constitution calls for the Legislature to govern as a co-equal branch of government ... it is clear that the expanded emergency powers granted to the Governor are no longer appropriate."

Amending RCW 43.06.220 (4):

"No emergency order issued by the Governor may continue for longer than 30 days unless extended by the legislature through concurrent resolution. If the legislature is not in session, the emergency order may be extended in writing by the leadership of the senate and the house of representatives for 30 days or until the legislature can extend the emergency order by concurrent resolution. For purposes of this section, 'leadership of the senate and the house of representatives' means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives. An emergency order narrowly written solely to qualify for federal funds is exempt from the requirement to receive legislative extension."

Conclusion

Long lasting emergency orders should receive the input of 147 legislators from across the state following a public process, allowing the perfection of policies through a collaborative weighing of all the options, alternatives and tradeoffs. This is precisely why the people's legislative branch of government exists - to deliberate and provide guidance to the executive branch on what policies should be in place and how to implement them.

Whether 14, 30, 45 or 60 days, at some point the executive branch should be **required** to receive permission from the legislative branch to continue making far-reaching policies under an emergency order. Our system is not meant to be the arbitrary rule of one.

Resources

[Why Washington State Needs Emergency Powers Reform \(video\)](#)

[Scoring Emergency Executive Power in all 50 States \(Maine Policy Institute\)](#)

Questions?

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