

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1187

(Senators Simonaire and Salling)

Education, Energy, and the Environment

State of Emergency – Restoration, Repair, or Replacement of Critical Infrastructure – Suspension of State or Local Law

This emergency bill establishes that, if the Governor finds it necessary to restore, repair, or replace critical infrastructure related to a state of emergency, the Governor may suspend the effect of any State or local law in order to facilitate the restoration, repair, or replacement of the critical infrastructure for up to one year after the date the Governor declared the state of emergency. Notwithstanding the termination of a state of emergency, the Governor may extend the suspension of State or local law as authorized under the bill until the restoration, repair, or replacement of critical infrastructure related to the state of emergency is completed. The General Assembly may terminate the suspension of State or local law at any time by joint resolution. The bill must be construed to apply retroactively and must be interpreted to authorize the suspension of State or local law necessary for the restoration, repair, or replacement of critical infrastructure related to a state of emergency declared by the Governor on or after March 26, 2024.

Fiscal Summary

State Effect: As the Governor already has the authority to suspend State or local law during a declared state of emergency (albeit for 30 days at a time with the option to renew repeatedly), State finances are not anticipated to be materially affected.

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Executive Order [01.01.2024.09](#), signed by the Governor on March 26, 2024, declared a state of emergency related to the collapse of the Francis Scott Key Bridge spanning the Patapsco River.

The emergency powers of the Governor are generally set forth under Title 14 of the Public Safety Article.

Maryland Emergency Management Act

Title 14, Subtitle 1 of the Public Safety Article requires the Governor to declare a state of emergency by executive order or proclamation if he or she finds that an emergency has developed or is impending due to any cause. The state of emergency continues until the Governor (1) finds that the threat or danger has passed or the emergency has been dealt with to the extent that emergency conditions no longer exist and (2) terminates the state of emergency by executive order or proclamation. A state of emergency may not continue for longer than 30 days unless renewed by the Governor. The General Assembly may terminate a state of emergency at any time by joint resolution.

The Secretary of Emergency Management is responsible for coordinating the activities of State agencies and affected political subdivisions in all actions that serve to prevent or alleviate the ill effects of the imminent or actual emergency. An executive order or proclamation that declares a state of emergency activates the emergency response and recovery aspects of State and local emergency plans, as specified.

After declaring a state of emergency, the Governor may take specified actions if he or she finds them necessary in order to protect the public health, welfare, or safety. For example, the Governor may suspend the effect of any statute or rule or regulation of an agency of the State or a political subdivision and may direct and compel the evacuation of all or part of the population from a stricken or threatened area in the State.

Among other things, Chapters 3 and 7 of the 2021 special session require the Governor to notify the Legislative Policy Committee (LPC) and, if applicable, the Administrative, Executive, and Legislative Review Committee, within 72 hours after suspending the effect of a statute or rule or regulation during a declared state of emergency. The notice must identify the statute, rule, or regulation being suspended and explain the reasons that suspending the statute, rule, or regulation is necessary to address the emergency. Also, the Governor or the head of a unit, when authorizing an emergency procurement during a declared state of emergency, must notify LPC within 72 hours of the execution of the contract or the expenditure of funds. If requested by LPC, the Governor or head of a unit

must provide a copy of the contract to LPC, and LPC may request that the Office of Legislative Audits conduct an audit of the emergency procurement.

Governor's Emergency Powers

Under Title 14, Subtitle 3 of the Public Safety Article (Governor's Emergency Powers), the General Assembly recognizes the Governor's broad authority in the exercise of the police power of the State to provide adequate control over persons and conditions during impending or actual public emergencies. The subtitle's provisions must be broadly construed to carry out its purpose. Section 14-303 of the Public Safety Article authorizes the Governor to proclaim a state of emergency and designate the emergency area during a public emergency in the State. After proclaiming a state of emergency, and in accordance with specified public notice requirements, the Governor may promulgate reasonable orders, rules, or regulations that he or she considers necessary to protect life and property or calculated effectively to control and terminate the public emergency in the emergency area, as specified. An order, rule, or regulation promulgated under this provision (1) takes effect from the time and in the manner specified in the order, rule, or regulation; (2) may be amended or rescinded, in the same manner as the original order, by the Governor at any time during the state of emergency; and (3) terminates when the Governor declares that the state of emergency no longer exists.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore County; Maryland Department of Emergency Management; Department of General Services; Department of Legislative Services

Fiscal Note History: First Reader - March 29, 2024
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Analysis by: Thomas S. Elder

Direct Inquiries to:
(410) 946-5510
(301) 970-5510