

Legislative Analysis



LIMIT CERTAIN EMERGENCY ORDERS TO 28 DAYS UNLESS LEGISLATURE APPROVES AN EXTENSION

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6184 as reported from committee
Sponsor: Rep. Julie Alexander

Analysis available at
<http://www.legislature.mi.gov>

House Bill 6194 (H-1) as reported
Sponsor: Rep. Bronna Kahle

House Bill 6196 as reported
Sponsor: Rep. Sue Allor

House Bill 6195 (H-1) as reported
Sponsor: Rep. Mary Whiteford

House Bill 6197 as reported
Sponsor: Rep. Daire Rendon

Committee: Oversight
Complete to 6-29-22

SUMMARY:

House Bills 6184 and 6194 to 6197 would amend different acts to limit the effectiveness of certain emergency orders or emergency powers to 28 days unless the legislature approves a requested extension. In addition, House Bill 6184 would establish content requirements for emergency epidemic orders issued by the director of the Department of Health and Human Services (DHHS) and prohibit, without legislative approval, a new order that addresses the same epidemic as an earlier one.

House Bill 6184 would amend the Public Health Code to require an emergency epidemic order issued by the director of DHHS to include information about the rationale for the order; limit the effectiveness of such an order to 28 days unless the legislature approves an extension; and prohibit a new emergency order that addresses the same epidemic as an earlier order without legislative approval.

Under the code, if the director of DHHS determines that it is necessary to control an epidemic to protect the public health, the director by emergency order can prohibit gatherings and establish procedures that must be followed during the epidemic.

Under the bill, an emergency public health order would have to identify the epidemic that is the subject of the order and include the following:

- A description of how its emergency procedures or prohibition on gatherings protects the public health.
- All information the director of DHHS used in deciding to issue the order and in determining the order to be necessary to protect the public health.

The bill also would provide that an emergency epidemic order issued by the director of DHHS cannot be valid for more than 28 days. After 28 days, the director would have to rescind the order unless the Senate and House both adopt a resolution to approve a request from the director to extend the order for a specific number of days. In addition, the director could not issue a new order based on the same epidemic as an earlier order unless the Senate and House both adopt a resolution to approve it. The provisions described in this paragraph are intended to be retroactive and to apply to emergency orders issued on or after November 15, 2020.

MCL 333.2253 and proposed MCL 333.2253a

House Bills 6194 and 6195 would amend provisions of the Public Health Code that require the director of DHHS, upon determining that an imminent danger to the health or lives of individuals exists in Michigan, to immediately inform the affected individuals of the imminent danger and issue an order to a person authorized to avoid, correct, or remove the imminent danger or to be posted at or near the imminent danger.

House Bill 6194 would provide that an order described above cannot be valid for more than 28 days. After that time, the order would not be valid unless the Senate and House both approve by resolution a request from the director to extend the order for a specific number of days.

In addition, the act now authorizes the director to take full charge of the administration of applicable state and local health laws to address conditions that the director determines constitute a menace to public health.

House Bill 6195 would provide that the director cannot address a public health menace as described above for more than 28 days. After 28 days, the director could take action under those provisions only if the Senate and House approve by resolution a request from the director to extend that authority for a specific number of days.

House Bills 6194 and 6195 are tie-barred to each other, which means that neither bill can take effect unless both bills are enacted.

MCL 333.2251 (HB 6195) and proposed MCL 333.2251a (HB 6194)

House Bill 6196 would amend provisions of the Safe Drinking Water Act that authorize the Department of Environment, Great Lakes, and Energy (EGLE) to issue an emergency order requiring any action the department determines necessary to protect the public health if a public water supply poses an imminent threat to the public health.

The bill would provide that such an emergency order cannot be valid for more than 28 days. After that time, the order would not be valid unless the Senate and House both approve by resolution a request from EGLE to extend the order for a specific number of days.

MCL 325.1015

House Bill 6197 would amend 1988 PA 279, which authorizes the governor to declare a public health state of emergency if there is a reasonable basis to believe that a consumer product has been adulterated and presents a threat to public safety and health and to order certain actions (e.g., removal from stores) with regard to that product.

The bill would provide that such a state of emergency and order cannot be valid for more than 28 days. After that time, the state of emergency and order would not be valid unless the Senate and House both approve by resolution a request from the governor to extend the state of emergency and order for a specific number of days.

MCL 10.122 and 10.125

BACKGROUND:

House Bill 6184 is nearly identical to Senate Bill 1, which was vetoed by the governor on March 24, 2021. In her veto message, Governor Whitmer wrote, “This bill would create a 28-

day limit on epidemic orders. Unfortunately, epidemics are not limited to 28 days. We should not so limit our ability to respond to them.”

FISCAL IMPACT:

House Bill 6184 would have indeterminate fiscal implications for DHHS and for local public health departments in the event of a pandemic and the institution of a monthly statutory termination of related emergency orders. Health department costs related to pandemic events include monitoring, contact tracing, collaborating with other public and private entities for pandemic infrastructure and response, and many others. Many of these costs are supported by state and local funds, and some of these costs have been supported by federal appropriations since FY 2019-20.

House Bill 6194 would have indeterminate fiscal implications for DHHS in the event of a situation of imminent danger and the institution of a monthly statutory termination of related emergency orders. Direct costs may include increased coordination with the legislature for approval for any extensions on a monthly basis.

House Bill 6195 would have indeterminate fiscal implications for DHHS in the event of a situation of imminent danger and menace to the public health and the institution of a monthly statutory termination of related emergency powers of the DHHS director. Direct costs may include increased coordination with the legislature for approval for any extensions on a monthly basis. Costs related to a public health crisis may include monitoring, contact tracing, collaborating with other public and private entities for infrastructure and response, and many others. These costs are supported by state, local, and federal funds.

House Bill 6196 is unlikely to affect costs or revenues for EGLE or local governments.

House Bill 6197 would have no significant fiscal impact on local units of government or the state of Michigan.

POSITIONS:

A representative of the Mackinac Center for Public Policy testified in support of the bills. (6-15-22)

NFIB indicated support for the bills. (6-21-22)

The Michigan Ground Water Association indicated support for House Bill 6196. (6-21-22)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.