

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 706
Apr 27, 2021
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10347-NBy-29C

Short Title: Realigning Emergency Checks and Balances. (Public)

Sponsors: Representative Kidwell.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE A CONCURRENCE OF THE COUNCIL OF STATE TO
3 EFFECTUATE A STATEWIDE STATE OF EMERGENCY ISSUED BY THE
4 GOVERNOR AND TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO
5 REQUIRE THE GENERAL ASSEMBLY TO CONVENE IN EXTRA SESSION IF THERE
6 EXISTS A STATEWIDE STATE OF EMERGENCY FOR TWENTY-ONE DAYS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1.(a) G.S. 166A-19.3 is amended by adding three new subdivisions to
9 read:

10 "(2a) Concurrence of the Council of State. – The consensus of a majority of the
11 Council of State prior to the Governor exercising a power or authority
12 requiring a concurrence of the Council of State. The Council of State shall be
13 given a period of 120 hours to concur or not concur with the exercise of a
14 power or authority requiring a concurrence of the Council of State, and during
15 that period, may meet remotely to consult with the Governor. The Governor
16 shall document the contact and response of each Council of State member and
17 shall release the concurrence, nonconcurrence, or no response provided by
18 each member by name and position.

19 (2b) Council of State. – The Lieutenant Governor, Secretary of State, Auditor,
20 Treasurer, Superintendent of Public Instruction, Attorney General,
21 Commissioner of Agriculture, Commissioner of Labor, Commissioner of
22 Insurance, or any interim officer or acting officer appointed in accordance
23 with Section 7 of Article III of the State Constitution.

24 ...

25 (20) Statewide emergency area. – Any emergency area applicable to 45 or more
26 counties in this State."

27 SECTION 1.(b) G.S. 166A-19.20 reads as rewritten:

28 "§ 166A-19.20. Gubernatorial or legislative declaration of state of emergency.

29 ...

30 (c) Expiration of States of Emergency. – A state of emergency declared pursuant to this
31 section shall expire as follows:

32 (1) If the emergency area constitutes fewer than 45 counties in this State, when it
33 is rescinded by the authority that issued it.

34 (2) If the emergency area constitutes 45 or more counties in this State, 120 hours
35 after issuance by the Governor without a concurrence of the Council of State.
36 After concurrence of the Council of State, the declaration of a state of



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1 emergency shall be in effect for no longer than 21 days from the day of
 2 issuance. During the pendency of a state of emergency in accordance with this
 3 subdivision, the Governor shall not issue any further substantially similar
 4 orders declaring a state of emergency.

5 ...

6 (f) Extra Session; Statewide Emergency Area. –

7 (1) Upon the convening of an extra session on legislative call in accordance with
 8 Section 11(2)(b) of Article II of the State Constitution, the General Assembly
 9 shall (i) hold a majority vote by the members present on a joint resolution
 10 whether to continue the state of emergency that contains a statewide
 11 emergency area issued by the Governor and, if the General Assembly finds an
 12 emergency exists, (ii) vote to resolve that the emergency exists and issue
 13 appropriate legislation to mitigate or address the emergency.

14 (2) If the General Assembly is in regular session at the time of a declaration of a
 15 state of emergency with a statewide emergency area, or scheduled to
 16 reconvene in regular session within 21 days of the date such declaration was
 17 issued by the Governor, then the General Assembly shall not convene in extra
 18 session, but shall hold a majority vote by the members present on a joint
 19 resolution whether to continue the state of emergency that contains a statewide
 20 emergency area issued by the Governor and, if the General Assembly finds an
 21 emergency exists, (ii) vote to resolve that the emergency exists and issue
 22 appropriate legislation to mitigate or address the emergency."

23 **SECTION 2.(a)** Section 11 of Article II of the Constitution of North Carolina reads

24 as rewritten:

25 **"Sec. 11. Sessions.**

26 (1) Regular Sessions. The General Assembly shall meet in regular session in 1973 and
 27 every two years thereafter on the day prescribed by law. Neither house shall proceed upon public
 28 business unless a majority of all of its members are actually present.

29 (2) Extra sessions on legislative call. The President of the Senate and the Speaker of the
 30 House of Representatives shall convene the General Assembly in extra session by their joint
 31 proclamation as follows:

32 (a) ~~upon~~ Upon receipt by the President of the Senate of written requests therefor
 33 signed by three-fifths of all the members of the Senate and upon receipt by the
 34 Speaker of the House of Representatives of written requests therefor signed
 35 by three-fifths of all the members of the House of Representatives.

36 (b) If a declaration of a state of emergency by the Governor applicable to 45 or
 37 more counties in this State has existed continuously for 21 days or more, or,
 38 if determined by the President Pro Tempore and Speaker of the House of
 39 Representatives, is expected to be in effect for 21 days or more, and if, as of
 40 the date of the declaration, the General Assembly has adjourned for more than
 41 21 days jointly as provided under Section 20 of Article II of this Constitution
 42 and the General Assembly is not scheduled to reconvene in regular session
 43 within 21 days of the date of the declaration."

44 **SECTION 2.(b)** The amendment set out in this section shall be submitted to the
 45 qualified voters of the State at a statewide election to be held on the same date as the general
 46 election in November of 2022, which election shall be conducted under the laws then governing
 47 elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter
 48 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

49 "[] FOR [] AGAINST

50 Constitutional amendment providing that the General Assembly shall convene in
 51 extra session upon the declaration of a statewide state of emergency by the Governor."

1 **SECTION 2.(c)** If a majority of votes cast on the question are in favor of the
2 amendment set out in this act, the State Board of Elections shall certify the amendment to the
3 Secretary of State. The Secretary of State shall enroll the amendment so certified among the
4 permanent records of that office. The amendment set out in this act becomes effective upon
5 certification and applies to declarations on or after that date.

6 **SECTION 3.** Section 1 of this act becomes effective only upon the certification and
7 enrollment of the amendment upon a majority of votes cast in favor of the amendment set out in
8 Section 2 of this act.

9 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
10 law.