

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 346
Judiciary Committee Substitute Adopted 4/21/21
Third Edition Engrossed 4/27/21

Short Title: Emergency Management Act Revisions.

(Public)

Sponsors:

Referred to:

March 25, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO DEFINE AND CLARIFY THE PROCESS BY WHICH AN EXECUTIVE
3 ORDER IS ISSUED BY THE GOVERNOR.

4 The General Assembly of North Carolina enacts:

5 SECTION 1.(a) G.S. 166A-19.3 reads as rewritten:
6 "§ 166A-19.3. Definitions.

7 ...

8 (2a) Concurrence of the Council of State. – The consensus, within 10 calendar days
9 of the issuance of an executive order, of a majority of the membership of the
10 Council of State prior to the Governor exercising a power or authority
11 requiring a concurrence of the Council of State. The Governor shall document
12 the contact and response of each Council of State member and shall release
13 the concurrence, nonconcurrence, or no response provided by each member
14 by name and position on the same website in which the executive order is
15 published. If consensus is achieved, the release of information by the
16 Governor shall be prior to, or simultaneously with, exercising the stated
17 authority.

18 (2b) Council of State. – The Lieutenant Governor, Secretary of State, Auditor,
19 Treasurer, Superintendent of Public Instruction, Attorney General,
20 Commissioner of Agriculture, Commissioner of Labor, Commissioner of
21 Insurance, or any interim officer or acting officer appointed in accordance
22 with Section 7 of Article III of the State Constitution.

23 ...

24 (9a) Executive order. – A signed, written, and published directive issued by the
25 Governor that carries the force of law.

26"

27 SECTION 1.(b) G.S. 166A-19.30 reads as rewritten:

28 "§ 166A-19.30. Additional powers of the Governor during state of emergency.

29 (a) In addition to any other powers conferred upon the Governor by law, during a
30 gubernatorially or legislatively declared state of emergency, with the concurrence of the Council
31 of State, the Governor shall have the following powers:

32 ...

33 (c) In addition to any other powers conferred upon the Governor by law, during a
34 gubernatorially or legislatively declared state of emergency, if the Governor determines that local
35 control of the emergency is insufficient to assure adequate protection for lives and property



1 because (i) needed control cannot be imposed locally because local authorities responsible for
2 preservation of the public peace have not enacted appropriate ordinances or issued appropriate
3 declarations as authorized by G.S. 166A-19.31; (ii) local authorities have not taken implementing
4 steps under such ordinances or declarations, if enacted or declared, for effectual control of the
5 emergency that has arisen; (iii) the area in which the emergency exists has spread across local
6 jurisdictional boundaries, and the legal control measures of the jurisdictions are conflicting or
7 uncoordinated to the extent that efforts to protect life and property are, or unquestionably will
8 be, severely hampered; or (iv) the scale of the emergency is so great that it exceeds the capability
9 of local authorities to cope with it, the Governor has the following ~~powers~~: powers, with the
10 concurrence of the Council of State:

11 ...

12 (c1) Any executive order issued by the Governor that exercises any of the powers granted
13 under subsections (a), (b), and (c) of this section shall expire 10 calendar days after issuance
14 unless the Council of State concurs as provided in G.S. 166A-19.3. If the Council of State fails
15 to concur, the Governor shall not issue a substantially similar executive order arising from the
16 same events that form the basis to issue the initial executive order that failed to receive a
17 concurrence of the Council of State.

18 (c2) If the Council of State concurs with the executive order in accordance with subsection
19 (c1) of this section, the executive order shall expire 45 calendar days from the date of issuance,
20 unless the General Assembly extends the executive order by the enactment of a general law. If
21 the General Assembly does not extend the executive order by enactment in accordance with this
22 subsection, the Governor shall not issue a substantially similar executive order arising from the
23 same events that formed the basis to issue the initial executive order that was not extended.

24"

25 **SECTION 2.** This act becomes effective September 1, 2021.