

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0659.01 Bob Lackner x4350

HOUSE BILL 21-1032

HOUSE SPONSORSHIP

Luck,

SENATE SPONSORSHIP

(None),

House Committees

Public & Behavioral Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ABILITY OF LOCAL GOVERNMENTS TO EXERT
102 AUTHORITY AFTER THE INITIAL IMPOSITION OF A STATEWIDE
103 DISASTER EMERGENCY DECLARATION HAVING LEGAL EFFECTS
104 WITHIN THEIR TERRITORIAL BOUNDARIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill permits the majority of the governing body of any county or municipality by adoption of a resolution, ordinance, law, or rule to abrogate all or any portion of a disaster emergency order applying to the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

county or municipality that has been issued by the governor under the governor's emergency management powers when the disaster emergency lasts longer than 30 days. Upon the enactment by the governing body of such a resolution, ordinance, law, or rule the order, or any portion of the order, has no legal force and effect within, as applicable, the municipality or within the unincorporated portions of the county where the resolution, ordinance, law, or rule has been approved by the governing body of a county.

The bill prohibits the state and any state department, institution, or agency from taking any action against a county or municipality, including without limitation any action resulting in denial of a monetary payment or the provision of any other form of financial assistance in retaliation for action by the governing body of the county or municipality to abrogate the governor's order.

The bill requires the governing body of the county or municipality to notify the governor and any affected state departments, institutions, or agencies of the adoption of such resolution, ordinance, law, or rule.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration - intent.** (1) The general
3 assembly hereby finds, determines, and declares that:

4 (a) In an effort to address the effects of the COVID-19 virus, the
5 governor of the state declared a disaster emergency throughout the state
6 in March 2020, which disaster emergency is still in effect statewide close
7 to one year later. The disaster emergency has imposed a series of severe
8 restrictions statewide on a mostly uniform basis, with accompanying
9 economic and social costs and burdens on the ability of citizens to lead
10 their lives and contribute to a productive economy, even though there are
11 widespread disparities among the state's sixty-four counties and hundreds
12 of municipalities as to the severity of the pandemic within their territorial
13 boundaries and opportunities for particular jurisdictions to promote the
14 public health while minimizing accompanying social costs of such public
15 health restrictions and keeping burdens on economic activity to the barest
16 extent necessary.

1 (b) As is so often the case, one-size-fits-all uniform restrictions
2 imposed by the state fail to do justice to the needs of this diverse state.
3 The same type of public health or economic restriction appropriate for a
4 populous jurisdiction along the front range may promote ill-considered
5 and adverse consequences in a less populated jurisdiction in a rural area.

6 (c) Consistent with constitutional principles of local control,
7 officials of local governments are better equipped than their state
8 counterparts to assess and make determinations as to the degree of
9 restrictions to be imposed in their jurisdictions in a declared disaster
10 emergency so as to best balance the need in their own communities to
11 protect the public health without aggravating and intensifying the
12 accompanying economic and social costs associated with severe public
13 health restrictions.

14 (2) House Bill 21-____, enacted in 2021, permits local
15 governments across the state to abrogate all or any portion of an order
16 applying to the local government that has been issued by the governor
17 pursuant to the governor's authority under the state's disaster emergency
18 powers when the disaster emergency lasts longer than thirty days. By
19 enacting this legislation, the general assembly intends to empower local
20 governments to be able to respond to pandemics and other declared
21 disaster emergencies within their territorial boundaries by allowing them
22 to fashion solutions at the local level that are tailored to meet the unique
23 needs and interests of their particular communities.

24 **SECTION 2.** In Colorado Revised Statutes, 24-33.5-704, **add**
25 (10) as follows:

26 **24-33.5-704. The governor and disaster emergencies - response**
27 **- duties and limitations.** (10) (a) NOTWITHSTANDING ANY OTHER

1 PROVISION OF THIS PART 7, BY APPROVAL OF A RESOLUTION, ORDINANCE,
2 OR ANY OTHER FORM OF LAW OR RULE PASSED BY A MAJORITY OF ITS
3 GOVERNING BODY, ANY COUNTY OR MUNICIPALITY MAY ABROGATE ALL OR
4 ANY PORTION OF AN ORDER APPLYING TO THE COUNTY OR MUNICIPALITY
5 THAT HAS BEEN ISSUED BY THE GOVERNOR PURSUANT TO THE GOVERNOR'S
6 AUTHORITY UNDER THIS PART 7 WHEN THE DISASTER EMERGENCY LASTS
7 LONGER THAN THIRTY DAYS. UPON THE ENACTMENT BY THE GOVERNING
8 BODY OF SUCH A RESOLUTION, ORDINANCE, LAW, OR RULE, THE ORDER
9 THAT IS THE SUBJECT OF THE RESOLUTION, ORDINANCE, LAW, OR RULE, OR
10 ANY PORTION OF THE ORDER THAT IS DISCUSSED IN THE RESOLUTION,
11 ORDINANCE, LAW, OR RULE, HAS NO LEGAL FORCE AND EFFECT WITHIN, AS
12 APPLICABLE, THE MUNICIPALITY OR, WHERE THE RESOLUTION, ORDINANCE,
13 LAW, OR RULE HAS BEEN APPROVED BY THE GOVERNING BODY OF A
14 COUNTY, WITHIN THE UNINCORPORATED PORTIONS OF THE COUNTY.

15 (b) NEITHER THE STATE NOR ANY OF ITS DEPARTMENTS,
16 INSTITUTIONS, OR AGENCIES SHALL TAKE ANY ACTION AGAINST A COUNTY
17 OR MUNICIPALITY, INCLUDING WITHOUT LIMITATION ANY ACTION
18 RESULTING IN DENIAL OF A MONETARY PAYMENT OR THE PROVISION OF
19 ANY OTHER FORM OF FINANCIAL ASSISTANCE, IN RETALIATION FOR ACTION
20 BY A MAJORITY OF THE GOVERNING BODY OF THE COUNTY OR
21 MUNICIPALITY IN APPROVING A RESOLUTION, ORDINANCE, OR ANY OTHER
22 FORM OF LAW OR RULE TO ABROGATE ALL OR ANY PORTION OF AN ORDER
23 APPLYING TO THE COUNTY OR MUNICIPALITY THAT HAS BEEN ISSUED BY
24 THE GOVERNOR PURSUANT TO THE GOVERNOR'S AUTHORITY UNDER THIS
25 PART 7 WHEN THE DISASTER EMERGENCY LASTS LONGER THAN THIRTY
26 DAYS.

27 **SECTION 3.** In Colorado Revised Statutes, 30-11-107, **add**

1 (1)(mm) as follows:

2 **30-11-107. Powers of the board.** (1) The board of county
3 commissioners of each county has power at any meeting:

4 (mm) (I) TO ADOPT A RESOLUTION, ORDINANCE, LAW, OR RULE
5 UNDER WHICH THE COUNTY ABROGATES ALL OR ANY PORTION OF AN
6 ORDER APPLYING TO THE COUNTY THAT HAS BEEN ISSUED BY THE
7 GOVERNOR PURSUANT TO THE GOVERNOR'S AUTHORITY UNDER PART 7 OF
8 ARTICLE 33.5 OF TITLE 24 WHEN THE DISASTER EMERGENCY LASTS LONGER
9 THAN THIRTY DAYS.

10 (II) UPON ADOPTION OF A RESOLUTION, ORDINANCE, LAW, OR RULE
11 PURSUANT TO SUBSECTION (1)(mm)(I) OF THIS SECTION, THE BOARD
12 SHALL NOTIFY THE GOVERNOR AND ANY AFFECTED STATE DEPARTMENTS,
13 INSTITUTIONS, OR AGENCIES OF THE ADOPTION OF THE RESOLUTION,
14 ORDINANCE, LAW, OR RULE.

15 **SECTION 4.** In Colorado Revised Statutes, 31-15-401, **add** (1)(r)
16 as follows:

17 **31-15-401. General police powers.** (1) In relation to the general
18 police power, the governing bodies of municipalities have the following
19 powers:

20 (r) (I) TO ADOPT A RESOLUTION, ORDINANCE, LAW, OR RULE UNDER
21 WHICH THE MUNICIPALITY ABROGATES ALL OR ANY PORTION OF AN ORDER
22 APPLYING TO THE MUNICIPALITY THAT HAS BEEN ISSUED BY THE
23 GOVERNOR PURSUANT TO THE GOVERNOR'S AUTHORITY UNDER PART 7 OF
24 ARTICLE 33.5 OF TITLE 24 WHEN THE DISASTER EMERGENCY LASTS LONGER
25 THAN THIRTY DAYS.

26 (II) UPON ADOPTION OF A RESOLUTION, ORDINANCE, LAW, OR RULE
27 PURSUANT TO SUBSECTION (1)(r)(I) OF THIS SECTION, THE GOVERNING

1 BODY SHALL NOTIFY THE GOVERNOR AND ANY AFFECTED STATE
2 DEPARTMENTS, INSTITUTIONS, OR AGENCIES OF THE ADOPTION OF THE
3 RESOLUTION, ORDINANCE, LAW, OR RULE.

4 **SECTION 5. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety.