

Legislative Analysis



EMERGENCY PUBLIC HEALTH ORDERS

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

Senate Bill 1 as enrolled

Sponsor: Sen. Lana Theis

House Committee: [Placed on second reading]

Senate Committee: Government Operations [Discharged]

Complete to 7-14-21

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

(Vetoed by the Governor 3-24-21)

SUMMARY:

Senate Bill 1 would amend the Public Health Code to do all of the following:

- Limit, to 28 days, the effectiveness of an emergency public health order issued by the director of the Department of Health and Human Services (DHHS) to control an epidemic, unless the legislature approves an extension.
- Prohibit the issuance, after those 28 days, of a new emergency order that addresses the same epidemic as an earlier order, unless the legislature approves it.
- Require that an emergency order issued by the director of DHHS to control an epidemic include information about how it was determined to be necessary and how it is expected to protect public health.

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

Information in orders

Under the bill, such 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.

Duration of orders

The bill also would provide that such an emergency public health order cannot be valid for more than 28 days unless both houses of the legislature adopt a resolution to approve a request from the director of DHHS to extend the order for a specific number of days. The bill states that this amendment is intended to be retroactive and to apply to emergency orders issued on or after November 15, 2020.

Subsequent orders

Finally, the bill would provide that, after the 28-day period described above, the director of DHHS cannot issue a new order based on the same epidemic as an earlier order unless both houses of the legislature adopt a resolution to approve it. The bill states that this amendment is 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

FISCAL IMPACT:

Senate Bill 1 would have indeterminate fiscal implications for DHHS and for local public health departments. 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. In the current pandemic many of these costs are supported by state and local funds, and some of these costs have been supported by federal appropriations in FY 2019-20 and FY 2020-21.

Vetoed 3-24-21:

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. Therefore, I am vetoing SB 1.”

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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.