SENATE BILL 74

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC HEALTH; ENACTING A NEW SECTION OF THE
EMERGENCY POWERS CODE; AMENDING THE PUBLIC HEALTH EMERGENCY
RESPONSE ACT; ENACTING A NEW SECTION OF THE PUBLIC HEALTH
PROVIDING FOR AUTOMATIC TERMINATION OF A PUBLIC HEALTH
EMERGENCY ORDER OR A PUBLIC HEALTH ORDER THAT CLOSES PUBLIC
PLACES OR LIMITS GATHERINGS; PROVIDING FOR RENEWAL OR AMENDMENT
OF A PUBLIC HEALTH EMERGENCY ORDER OR A PUBLIC HEALTH ORDER BY
THE LEGISLATURE OR BY PARTICULAR LEGISLATIVE LEADERS IN CERTAIN
CIRCUMSTANCES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Emergency Powers Code is
enacted to read:

"[NEW MATERIAL] PUBLIC HEALTH ORDER--PUBLIC PLACES AND
GATHERINGS--TERMINATION AND RENEWAL.--

.219077.1
A. Upon issuing a public health order pursuant to the Emergency Powers Code that is of general applicability throughout the state or a portion of the state that closes any public place or forbids or limits gatherings of people, the governor shall transmit copies of the order to the president pro tempore and the minority floor leader of the senate and the speaker and the minority floor leader of the house of representatives.

B. A public health order subject to the requirements of Subsection A of this section shall automatically terminate fourteen days after being issued and shall not be renewed or amended nor shall a new order be issued for the same subject matter except by joint resolution of the legislature or, if the legislature is not in session at the time of the termination of an order, by a joint statement that is transmitted to the governor and signed by three or more of the following individuals: the president pro tempore of the senate, the minority floor leader of the senate, the speaker of the house of representatives or the minority floor leader of the house of representatives."

SECTION 2. Section 12-10A-5 NMSA 1978 (being Laws 2003, Chapter 218, Section 5) is amended to read:

"12-10A-5. DECLARING A STATE OF PUBLIC HEALTH EMERGENCY--TERMINATING THE EMERGENCY--NOTICE TO LEGISLATURE AND LEGISLATIVE APPROVAL FOR CERTAIN PUBLIC HEALTH EMERGENCIES.--
A. A state of public health emergency may be declared by the governor upon the occurrence of a public health emergency. Prior to a declaration of a state of public health emergency, the governor shall consult with the secretary of health. The governor shall authorize the secretary of health, the secretary of public safety and the director to coordinate a response to the public health emergency.

B. A state of public health emergency shall be declared in an executive order that specifies:

1. the nature of the public health emergency;
2. the political subdivisions or geographic areas affected by the public health emergency;
3. the conditions that caused the public health emergency;
4. whether the expected duration of the public health emergency is greater than fourteen days for an emergency that is used as the basis for an executive order of general applicability throughout the state or a portion of the state and closes any public place or forbids or limits gatherings of people;
5. whether the expected duration of the public health emergency is less than thirty days for public health emergencies not subject to Paragraph (4) of this subsection;
6. the public health officials needed.
to assist in the coordination of a public health emergency response; and

[(6)] (7) any other provisions necessary to implement the executive order.

C. Upon issuing an executive order, based on a declaration of a state of public health emergency that is of general applicability throughout the state or a portion of the state that closes any public place or forbids or limits gatherings of people, the governor shall transmit copies of the declaration to the president pro tempore of the senate, the minority floor leader of the senate, the speaker of the house of representatives and the minority floor leader of the house of representatives.

[D] A declaration of a state of public health emergency shall not abrogate any disease-reporting requirements set forth in the Public Health Act.

[E] A declaration of a state of public health emergency shall be terminated:

(1) by the governor, after consultation with the secretary of health, upon determining that there is no longer a public health emergency; or

(2) automatically after:

(a) fourteen days for an emergency that is used as the basis for an order of general applicability throughout the state or a portion of the state that closes any
public place or forbids or limits gatherings of people;
provided that the public health emergency shall only be renewed
or amended and a new public health emergency on the same
subject matter shall only be declared by a joint resolution of
the legislature or, if the legislature is not in session at the
time the original declaration terminates for a period of time
until the legislature meets in session, by a joint statement
that is transmitted to the governor and signed by three or more
of the following individuals: the president pro tempore of the
senate, the minority floor leader of the senate, the speaker of
the house of representatives or the minority floor leader of
the house of representatives; or

(b) thirty days for a public health
early not subject to Subparagraph (a) of this paragraph,
unless renewed by the governor after consultation with the
secretary of health.

[F. Upon the termination of a state of public
health emergency, the secretary of health shall consult with
the secretary of public safety and the director to ensure
public safety during termination procedures."

SECTION 3. A new section of the Public Health Act is
enacted to read:

"[NEW MATERIAL] PUBLIC HEALTH ORDER--PUBLIC PLACES AND
GATHERINGS--TERMINATION AND RENEWAL.--

A. Upon issuing a public health order that is of
general applicability throughout the state or a portion of the
state that closes any public place or forbids or limits
gatherings of people, the secretary shall transmit copies of
the order to the president pro tempore of the senate, the
minority floor leader of the senate, the speaker of the house
of representatives and the minority floor leader of the house
of representatives.

B. A public health order that is of general
applicability throughout the state or a portion of the state
that closes any public place or forbids or limits gatherings of
people shall automatically terminate fourteen days after being
declared and shall only be renewed, amended or reissued by a
joint resolution of the legislature or, if the legislature is
not in session for a period of time until the legislature meets
in session, by a joint statement that is transmitted to the
governor and signed by three or more of the following
individuals: the president pro tempore of the senate, the
minority floor leader of the senate, the speaker of the house
of representatives or the minority floor leader of the house of
representatives."

SECTION 4. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect immediately.