

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 678
Apr 1, 2025
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40403-MCy-101

Short Title: Ensure Constitutional Government.

(Public)

Sponsors: Representative Blust.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT THE GOVERNOR DOES NOT HAVE STATEWIDE EMERGENCY POWERS WHICH PERMIT HIM TO RULE BY DECREE FOR AN INDEFINITE PERIOD OF TIME, TO PROTECT THE CONSTITUTIONAL RIGHTS OF THE PEOPLE DURING A STATE OF EMERGENCY, TO TRIGGER A SPECIAL SESSION OF THE NORTH CAROLINA GENERAL ASSEMBLY UPON THE CALLING BY THE GOVERNOR OF A STATEWIDE STATE OF EMERGENCY, TO RESTORE THE ACTUAL INTENT OF THE EMERGENCY MANAGEMENT ACT, AND TO REQUIRE GENERAL ASSEMBLY APPROVAL OF EMERGENCY MEASURES LASTING MORE THAN TWO WEEKS.

Whereas, the Constitution of the United States and the Constitution of North Carolina guarantee inalienable rights of the people such as the right to peacefully assemble, freedom of religion, and several other rights; and

Whereas, Article I, Section 6 of the North Carolina Constitution guarantees the separation of powers between the legislative, executive, and judicial branches; and

Whereas, Article I, Section 7 of the North Carolina Constitution provides that "All power of suspending laws or the execution of laws by any authority, without the consent of the representatives of the people, is injurious to their rights and shall not be exercised."; and

Whereas, Article I, Section 19 of the North Carolina Constitution guarantees all people the equal protection of the law; and

Whereas, Article I, Section 21 of the North Carolina Constitution provides that "Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the restraint if unlawful, and that remedy shall not be denied or delayed."; and

Whereas, Article II, Section 1 of the North Carolina Constitution provides that all "legislative power of the State shall be vested in the General Assembly"; and

Whereas, the Governor only has those emergency powers expressly granted by the General Assembly in the Emergency Management Act, G.S. 166A-19, et. seq., which is statutory only and cannot be used to indefinitely suspend rights guaranteed to the people under the federal and State constitutions and which requires approval of the Council of State before most gubernatorial measures can be implemented; and

Whereas, during the COVID-19 pandemic, the Governor of North Carolina used a state of emergency to rule by decree for over a year; and

Whereas, the Governor, through executive orders, deprived people of the enjoyment of many constitutional rights, such as the right to peacefully assemble, to worship freely, to educate their children, and to be gainfully employed to earn a living and pay their bills; and



* D R H 4 0 4 0 3 - M C Y - 1 0 1 *

1 Whereas, this abuse of power by the Governor threw thousands of people out of work,
2 closed many businesses (while leaving others open without explanation), implemented curfews,
3 implemented mandates, closed churches, closed schools, prohibited the gathering of 10 or more
4 persons, required people to stay home, and other abuses; and

5 Whereas, these orders deprived people of work and livelihoods, caused many
6 businesses to fail, often resulting in the destruction of people's lifetime work and dreams,
7 deprived children of their education and kept them separated from friends, harmed the mental
8 health of thousands, and did incalculable additional damage to the State and its people; and

9 Whereas, the irreparable damage done by the Governor was not based on science but
10 upon the whims of the Governor in violation of the North Carolina Constitution which vests all
11 legislative power of the State in the General Assembly and which protects the fundamental rights
12 of the people; and

13 Whereas, these executive orders were in violation of the Emergency Management
14 Act, which requires the consent of the Council of State before the Governor can take such actions;
15 and

16 Whereas, the Governor did not provide the scientific basis for many executive orders
17 issued under the guise of fighting COVID-19 and the Governor never cited any constitutional
18 authority for these actions; and

19 Whereas, these actions by the Governor, which severely damaged the State and its
20 people, were without benefit and did not have the claimed effect against COVID-19; and

21 Whereas, other states that did not shut down or which took actions far less draconian
22 and of much shorter duration than the Governor took in North Carolina did just as well or better
23 against COVID-19 than experienced in this State; Now, therefore,
24 The General Assembly of North Carolina enacts:

25 **SECTION 1.(a)** Section 5 of Article III of the North Carolina Constitution is
26 amended by adding a new subsection to read:

27 "(10a) Limitation. Nothing in this section, Article, or Constitution shall be construed to
28 empower the Governor with emergency powers beyond those expressly granted to the Governor,
29 as prescribed by law passed by the General Assembly. Emergency powers granted to the
30 Governor shall be strictly construed and may not be used to infringe on or deny the rights of the
31 people guaranteed in this Constitution and the Constitution of the United States. No actions by
32 the Governor exercising emergency powers prescribed by law may last more than two weeks
33 unless ratified by a joint resolution passed by a majority of the members of each house of the
34 General Assembly present and voting in an emergency session convened as provided under
35 Section 11 of Article II of this Constitution."

36 **SECTION 1.(b)** Section 11 of Article II of the North Carolina Constitution is
37 amended by adding a new subsection to read:

38 "(3) Emergency sessions. Upon the declaration of a state of emergency by the Governor,
39 the General Assembly shall go into an emergency session beginning seven days after the effective
40 date of the statewide state of emergency, Sundays and State and federal holidays excepted."

41 **SECTION 1.(c)** The amendments set out in subsections (a) and (b) of this section
42 shall be submitted to the qualified voters of the State at the statewide general election to be held
43 on November 3, 2026, which election shall be conducted in accordance with the laws governing
44 elections at that time. The question to be used in the voting systems and ballots shall be:

45 FOR AGAINST

46 Constitutional amendment to limit, under a state of emergency, both the scope of
47 executive action by the Governor with respect to Constitutional rights and the length executive
48 actions by the Governor remain valid unless ratified by the General Assembly."

49 **SECTION 1.(d)** The State Board of Elections shall certify the results of the
50 referendum conducted under subsection (c) of this section. If a majority of votes cast on the
51 question are in favor of the amendments set out in subsections (a) and (b) of this section, the

1 Secretary of State shall enroll the amendments among the permanent records of that office. If a
2 majority of votes cast on the question are against the amendments set out in subsections (a) and
3 (b) of this section, the amendments shall have no effect.

4 **SECTION 1.(e)** If the certification from the State Board of Elections under
5 subsection (d) of this section reflects that a majority of votes cast on the question are in favor of
6 the amendments set out in subsections (a) and (b) of this section, the amendments set out in
7 subsections (a) and (b) of this section are effective upon certification.

8 **SECTION 2.(a)** G.S. 166A-19.20 reads as rewritten:

9 **"§ 166A-19.20. Gubernatorial or legislative declaration of state of emergency.**

10 (a) Declaration. – A state of emergency may be declared by the Governor or by a
11 resolution of the General Assembly, if either of these finds that an emergency exists.

12 (b) Emergency Area. – An executive order or resolution declaring a state of emergency
13 shall include a definition of the area constituting the emergency area.

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

16 (1) If not a statewide emergency area, when it is rescinded by the authority that
17 issued it.

18 (2) If a statewide emergency area, ~~30~~seven calendar days after issuance without
19 a concurrence of the Council of State. A declaration of emergency may not be
20 continued without the concurrence of the Council of State. If the Council of
21 State concurs with the declaration of emergency, the declaration of emergency
22 shall expire ~~60~~14 calendar days after issuance, unless the General Assembly
23 extends the declaration of emergency by enactment of a general law. If the
24 General Assembly does not extend the declaration of emergency by enactment
25 in accordance with this subdivision, the Governor shall not issue a
26 substantially similar declaration of emergency arising from the same events
27 that formed the basis to issue the initial declaration of emergency that was not
28 extended.

29 (c1) Effect of Failure of Concurrence of the Council of State. – If the concurrence of the
30 Council of State fails with the issuance or continuation of a declaration of emergency under
31 subdivision (c)(2) of this section, the Governor shall not issue the same or any other substantially
32 similar declarations of emergency based on the same emergency.

33 (c2) Multiple Declarations to Avoid Concurrence of Council of State. – If the Governor
34 declares more than one state of emergency based on the same emergency that would extend the
35 application of the emergency area, when combined, to more than two-thirds of the counties in
36 the State, the Governor shall obtain the concurrence of the Council of State in accordance with
37 subdivision (c)(2) of this section for each declaration of emergency.

38 (d) Exercise of Powers Not Contingent on Declaration of Disaster Type. – Once a state
39 of emergency has been declared pursuant to this section, the fact that a declaration of disaster
40 type has not been issued shall not preclude the exercise of powers otherwise conferred during a
41 state of emergency.

42 (e) Extra Session; Emergency Transportation Expenditures. – The General Assembly
43 considers a determination by the Secretary of Transportation under G.S. 136-44.2E(f) that
44 anticipated emergency expenses will exceed the funds in the Transportation Emergency Reserve
45 within the meaning of the term "extraordinary occasions," and therefore the Governor is
46 authorized to convene the General Assembly in Extra Session under Section 5(7) of Article III
47 of the North Carolina Constitution. The General Assembly strongly urges the Governor to
48 convene the General Assembly in Extra Session within 14 days of notice by the Secretary under
49 G.S. 136-44.2E(f) for the purpose of appropriating funds from the Savings Reserve to the
50 Emergency Reserve to address the transportation needs of the State necessitated by a major
51 disaster."

1 **SECTION 2.(b)** This section is effective when it becomes law and applies to states
2 of emergency declared on or after that date.
3 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
4 law.