

ASSEMBLY, No. 5820
STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 1, 2021

Sponsored by:**Assemblyman CRAIG J. COUGHLIN****District 19 (Middlesex)****Assemblyman NICHOLAS CHIARAVALLOTI****District 31 (Hudson)****Senator STEPHEN M. SWEENEY****District 3 (Cumberland, Gloucester and Salem)****SYNOPSIS**

Provides for termination of public health emergency declared by Governor to address COVID-19 pandemic, except certain executive orders, directives, and powers will remain in effect temporarily.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning emergency health powers and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. All executive orders issued by the Governor prior to the effective date of this act, P.L. , c. (C.) (pending before the Legislature at this bill), that relied on the existence of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, shall expire 30 days following the effective date of this act, with the exception of the executive orders listed in this section that shall remain in effect until January 1, 2022. The Governor shall have the ability to revoke or modify the executive orders listed in this section prior to January 1, 2022.

- (1) Executive Order No. 106 (2020)
- (2) Executive Order No. 111 (2020)
- (3) Executive Order No. 112 (2020)
- (4) Executive Order No. 123 (2020)
- (5) Executive Order No. 127 (2020)
- (6) Executive Order No. 150 (2020)
- (7) Executive Order No. 159 (2020)
- (8) Executive Order No. 170 (2020)
- (9) Executive Order No. 178 (2020)
- (10) Executive Order No. 207 (2020)
- (11) Executive Order No. 229 (2021)
- (12) Executive Order No. 233 (2021)
- (13) Executive Order No. 237 (2021)

(14) The most recent executive order containing general coronavirus disease 2019 (COVID-19) mitigation measures regarding face coverings, social distancing, and gatherings prior to the effective date of this act, and this executive order shall not be more restrictive than the recommendations provided in the federal Centers for Disease Control and Prevention guidelines on social distancing and face coverings in response to the coronavirus disease 2019 (COVID-19) pandemic, unless a substantial increase in hospitalizations, substantially increased spot positivity, or rate of transmission above 1 necessitates a modification that would be more restrictive.

2. Notwithstanding the provision of section 1 of this act, P.L. , c. (C.) (pending before the Legislature at this bill), allowing Executive Order No. 112 of 2020 to remain in place until January 1, 2022, any civil or criminal immunity related to the COVID-19 response bestowed by either Executive Order No. 112 of 2020, P.L.2020, c.18, or Department of Health Executive Directive No. 20-006 (Revised) as issued December 16, 2020 upon health care professionals, health care facilities, health care systems, modular field treatment facilities, and any other sites designated by the Commissioner of the Department of Health for temporary use in connection with the State's COVID-19 response, including hotels and student dormitories, shall last until September 1, 2021, and then expire on that date. Conduct occurring prior to September 1, 2021 by health care professionals, health care facilities, or health care systems shall retain the civil or criminal immunity provided by Executive Order No. 112 of 2020, P.L.2020, c.18, or Department of

Health Executive Directive No. 20-006 (Revised) as issued December 16, 2020. The civil immunity bestowed upon health care professionals in connection with the State's COVID-19 response by P.L.2020, c.18 shall continue beyond September 1, 2021 only for individuals specifically engaged in vaccinations or testing related to COVID-19.

3. a. Following the termination of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, the force and effect of any administrative order, directive, or waiver issued by the head of a State agency that relied on the existence of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, shall expire on January 11, 2022. Such administrative order, directive, or waiver may be continued and may be modified by the head of a State agency, unless such administrative order, directive, or waiver is explicitly revoked, until January 11, 2022.

b. Notwithstanding subsection a. of this section, the Governor shall notify the Legislature by January 1, 2022 if the Governor determines that it is necessary or appropriate to continue for an additional 90 days beyond January 11, 2022 any administrative order, directive, or waiver issued by the head of a State agency that relied on the existence of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended. The administrative orders, directives, or waivers shall be extended for an additional 90 days if each House of the Legislature passes a concurrent resolution to continue any such administrative order, directive, or waiver. Any administrative order, directive, or waiver as to which the Governor does not provide notification to the Legislature or as to which both Houses of the Legislature do not pass a concurrent resolution to continue shall expire on January 11, 2022.

c. Notwithstanding subsection a. of this section, the provisions of any administrative order, directive, or waiver issued by the Department of Health that relied on the existence of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, governing staffing ratios, overtime, shifts, and vacation time shall remain in force and effect until September 1, 2021, at which time all such provisions of administrative orders, directives, and waivers governing staffing ratios, overtime, shifts, and vacation time shall be superceded by relevant provisions of laws, regulations, or collective bargaining agreements in effect on that date.

4. The termination of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, shall in no way diminish, limit, or impair the powers of the Governor or the head of a State agency pursuant to the provisions of the civilian defense and disaster control act P.L.1942, c.251 (C.App.A:9-33 et seq.). The state of emergency declared in Executive Order No. 103 of 2020, as extended, pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.) shall remain in effect until terminated by the Governor.

While the state of emergency declared in Executive Order No. 103 of 2020 shall remain in effect, the deadlines in paragraph (1) of subsection i. of section 6 of P.L.2001, c.404 (C.47:1A-5) shall apply to any request made under the open public records act after the effective date of this act, with the exception of requests made for records related to the COVID-19 response, which shall continue to be governed by paragraph (2) of subsection i. of section 6 of P.L.2001, c.404 (C.47:1A-5).

5. Following the termination of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, the Governor, Commissioner of Health, and the head of any other State agency may issue orders, directives, and waivers pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) related to (1) vaccination distribution, administration, and management, (2) COVID-19 testing, (3) health resource and personnel allocation, (4) data collection, retention, sharing, and access, (5) coordination of local health departments, and (6) implementation of any applicable recommendations of the Centers for Disease Control and Prevention to prevent or limit the transmission of COVID-19, including in specific settings.

The authority granted by this section shall last until January 11, 2022, unless the Governor notifies the Legislature by January 1, 2022 that the authority granted by this section is necessary to combat the continuing threat posed by COVID-19 and should last for another 90 days. In the event of such notification, the Legislature shall have the authority to pass a concurrent resolution to concur with the Governor's notice. If such a concurrent resolution passes both Houses of the Legislature, then the authority granted by this section shall continue for an additional 90 days. If such a concurrent resolution does not pass both Houses of the Legislature, then the authority granted by this section shall expire on January 11, 2022.

6. This act shall take effect immediately.

STATEMENT

Under this bill, all executive orders issued by the Governor prior to the effective date of this bill that relied on the existence of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, will expire 30 days following the effective date of this bill, with the exception of the executive orders listed below that will remain in effect until January 1, 2022. The Governor will have the ability to revoke or modify the following executive orders prior to January 1, 2022.

Executive Order No. 106 (2020)
Executive Order No. 111 (2020)
Executive Order No. 112 (2020)
Executive Order No. 123 (2020)
Executive Order No. 127 (2020)
Executive Order No. 150 (2020)
Executive Order No. 159 (2020)
Executive Order No. 170 (2020)
Executive Order No. 178 (2020)
Executive Order No. 207 (2020)
Executive Order No. 229 (2021)
Executive Order No. 233 (2021)
Executive Order No. 237 (2021)

The most recent executive order containing general COVID-19 mitigation measures regarding face coverings, social distancing, and gatherings prior to the effective date of this bill and the executive order cannot be more restrictive than the recommendations provided in the federal Centers for Disease Control and Prevention guidelines on social

distancing and face coverings in response to the COVID-19 pandemic, unless a substantial increase in hospitalizations, substantially increased spot positivity, or rate of transmission above 1 necessitates a modification that would be more restrictive.

Notwithstanding the provision allowing Executive Order No. 112 of 2020 to remain in place until January 1, 2022, any civil or criminal immunity related to the COVID-19 response bestowed by either Executive Order No. 112 of 2020, P.L.2020, c.18, or Department of Health Executive Directive No. 20-006 of 2020 upon health care professionals, health care facilities, health care systems, modular field treatment facilities, and any other sites designated by the Commissioner of the Department of Health for temporary use in connection with the State's COVID-19 response, including hotels and student dormitories, will last until September 1, 2021, and then expire on that date. Conduct occurring prior to September 1, 2021 by health care professional, health care facilities, or health care systems will retain the civil or criminal immunity provided by Executive Order No. 112 of 2020, P.L.2020, c.18, or Department of Health Executive Directive No. 20-006 of 2020. Under the bill, the civil immunity bestowed upon health care professionals in connection with the State's COVID-19 response by P.L.2020, c.18 would continue beyond September 1, 2021 only for individuals specifically engaged in vaccinations or testing related to COVID-19.

Following the termination of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, the force and effect of any administrative order, directive, or waiver issued by the head of a State agency that relied on the existence of public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, would expire on January 11, 2022. Under the bill, such administrative orders, directive, or waiver may be continued and may be modified by the head of a State agency, unless such administrative order, directive, or waiver is explicitly revoked, until January 11, 2022.

The bill provides that the Governor must notify the Legislature by January 1, 2022 if the Governor determines that it is necessary or appropriate to continue for an additional 90 days beyond January 11, 2022 any administrative order, directive, or waiver issued by the head of a State agency that relied on the existence of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended. The administrative order, directive, or waiver would be extended for an additional 90 days if each House of the Legislature passes a concurrent resolution to continue any such administrative orders, directives, or waivers. Any administrative orders, directives, or waivers as to which the Governor does not provide notification to the Legislature or as to which both Houses of the Legislature do not pass a concurrent resolution to continue would expire on January 11, 2022.

Under the bill, the provision of any administrative order, directive, or waiver issued by the Department of Health that relied on the existence of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, governing staffing ratios, overtime, shifts, and vacation time shall remain in force and effect until September 1, 2021, at which time all such provisions of administrative orders, directives, and waivers governing staffing ratios, overtime, shifts, and vacation time will be superseded by relevant provisions of laws, regulations, or collective bargaining agreements in effect on that date.

The bill specifies that the termination of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, will in no way diminish, limit, or impair the powers of the Governor or the head of a State agency pursuant to the provisions of the civilian defense and disaster control act P.L.1942, c.251 (C.App.A:9-33 et seq.). The state of emergency declared in Executive Order No. 103 of 2020 pursuant to that law will remain in effect until terminated by the Governor.

However, while the state of emergency declared in Executive Order No. 103 of 2020 remains in effect, the deadlines in paragraph (1) of subsection i. of section 6 of P.L.2001, c.404 (C.47:1A-5) will apply to any requests made under the open public records act after the effective date of this bill, with the exception of requests made for records related to the COVID-19 response, which will still be governed by paragraph (2) of subsection i. of section 6 of P.L.2001, c.404 (C.47:1A-5).

Following the termination of the public health emergency declared by the Governor in Executive Order No. 103 of 2020, as extended, the Governor, Commissioner of Health, and the head of any other State agency may issue orders, directives, and waivers pursuant to the emergency health powers law, P.L.2005, c.222 (C.26:13-1 et seq.), related to (1) vaccination distribution, administration, and management, (2) COVID-19 testing, (3) health resource and personnel allocation, (4) data collection, retention, sharing, and access, (5) coordination of local health departments, and (6) implementation of any applicable recommendations of the Centers for Disease Control and Prevention to prevent or limit the transmission of COVID-19, including in specific settings. The authority granted above will last until January 11, 2022, unless the Governor notifies the Legislature by January 1, 2022 that the authority granted is necessary to combat the continuing threat posed by COVID-19 and should last for another 90 days. In the event of such notification, the Legislature will have the authority to pass a concurrent resolution to concur with the Governor. If such a concurrent resolution passes both Houses of the Legislature, then the authority granted will continue for an additional 90 days. If such a concurrent resolution does not pass both Houses of the Legislature, then the authority granted would expire on January 11, 2022.