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# OHIO LEGISLATIVE SERVICE COMMISSION

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Office

H.B. 267  
134<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Rep. Jordan

Alyssa Bethel and Jason Hoskins, Attorneys

### SUMMARY

- Allows the General Assembly to issue a statewide order or special or standing order or rule via concurrent resolution, in response to a public health state of emergency, if the General Assembly had asked the Governor or Ohio Department of Health (ODH) to issue the order and the Governor or ODH did not.
- Limits to 14 days any statewide order issued by the Governor, the Lieutenant Governor, or an administrative department head, or certain orders and rules issued by ODH in response to a public health state of emergency, unless extended by the General Assembly.

### DETAILED ANALYSIS

The bill addresses public health states of emergency, which is defined as an emergency for which the Governor has declared an emergency in response to a threat to the preservation of the life and health of the people of Ohio.<sup>1</sup> This includes the three current types of emergencies the Governor has specific statutory authority to declare: an air pollution emergency, an energy shortage emergency, and an adulterated consumer product emergency.<sup>2</sup>

#### **General Assembly issue orders via concurrent resolution**

First, the bill allows the General Assembly to issue a statewide order or a special or standing order or rule for preventing the spread of contagious or infectious disease via concurrent resolution, in response to a public health state of emergency, if the General Assembly first asked the Governor or the Ohio Department of Health (ODH) to issue the order

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<sup>1</sup> R.C. 107.44(A).

<sup>2</sup> R.C. 3704.032, 4935.03, and 3715.74, not in the bill.

or rule, but the Governor or ODH does not issue the order or rule within ten days. The General Assembly submits its request to the Governor or ODH in writing, upon vote of a majority of the members of each house. If the Governor or ODH does not issue the requested order or rule within ten days after receiving the request, the General Assembly may proceed under the bill to issue a statewide order or the special or standing order or rule via concurrent resolution. Any statewide order or special or standing order or rule the General Assembly issues via concurrent resolution may last at most 14 days.<sup>3</sup>

### **Limit on duration of public health orders**

Second, the bill limits the duration of a statewide order issued by the Governor, the Lieutenant Governor, or an administrative department head<sup>4</sup> or a special or standing order or rule for preventing the spread of contagious or infectious disease issued by ODH<sup>5</sup> in response to a public health state of emergency. Such an order or rule may last at most 14 days, under the bill, unless the General Assembly extends the order or rule. The General Assembly may extend an order or rule for up to an additional 14 days by adopting a concurrent resolution, and can do so continuously by adopting subsequent concurrent resolutions. If the General Assembly does not extend the order or rule, the Governor, Lieutenant Governor, administrative department head, or ODH cannot issue an identical or substantially similar order or rule, or any restriction contained in the original order or rule, for 60 days after the order expires.<sup>6</sup>

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## **COMMENT**

The bill allows the General Assembly to issue a statewide order or a special or standing order or rule for preventing the spread of contagious or infectious disease via concurrent resolution, in response to a public health state of emergency, if the General Assembly had asked the Governor or ODH to issue the order or rule and the Governor or ODH did not. A reviewing court might examine this provision of the bill because the Ohio Constitution specifies that, “The General Assembly shall enact no law except by bill,” which must be presented to the Governor for approval and, unless an exception applies, is subject to the referendum. The Ohio Supreme Court has previously ruled that a resolution cannot have the effect of a law.<sup>7</sup>

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<sup>3</sup> R.C. 101.361(C) and 107.44(C).

<sup>4</sup> See R.C. 121.03 for a list.

<sup>5</sup> R.C. 3701.13(C).

<sup>6</sup> R.C. 101.361(B) and 107.44(B).

<sup>7</sup> Ohio Constitution, Article II, Sections 1c, 1d, and 15 and *Cleveland Terminal and Valley Railroad Company v. State*, 85 Ohio St. 251, 294 (1912).

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## HISTORY

Action	Date
Introduced	04-22-21

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