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H.B. 269
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Galonski

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SUMMARY

- Repeals S.B. 22 of the 134th General Assembly, which does the following:
 - Limits the duration of a state of emergency issued by the Governor to 90 days unless extended by the General Assembly, and allows the General Assembly to extend a state of emergency in 60-day intervals by adopting a concurrent resolution.
 - After a state of emergency declared by the Governor has been in effect for 30 days, permits the General Assembly to terminate the state of emergency.
 - Prohibits the Governor from reissuing a state of emergency for 60 days after expiration or termination, unless approved by the General Assembly by adopting a concurrent resolution.
 - Permits the General Assembly to rescind orders and rules issued in response to the emergency, and prohibits the reissuance of a rescinded order or rule for 60 days unless approved by the General Assembly by adopting a concurrent resolution.
 - During a state of emergency, requires the Governor and Department of Health (ODH) to report to the Senate President and Speaker of the House any actions taken in response to the emergency.
 - Establishes the Ohio Health Oversight and Advisory Committee, consisting of three members of the Senate and three members of the House.
 - Authorizes the Committee to oversee actions taken by the Governor, ODH, or any agency in response to a state of emergency; to oversee actions taken by ODH and the Director of Health for preventing the spread of contagious or infectious disease and for controlling and suppressing the cause of disease; and to consult with and advise the Governor, ODH, and other agencies during a state of emergency.
 - Permits the General Assembly to rescind certain orders and rules issued by ODH and certain actions of the Director of Health.

- Specifies that the authority of ODH relating to the preservation of the life and health of the people is superior to the authority of local boards of health.
- Specifies that a local board of health may only issue a quarantine and isolation order that applies to specific individuals that have been medically diagnosed with or have come into direct contact with someone who has been medically diagnosed with a specified disease.
- Generally, prohibits a local board of health from closing schools or prohibiting public gatherings and instead permits a local board to close a specific school if certain conditions are met.
- Specifies that a local board of health may only issue orders and regulations that apply to specific individuals and businesses, and that orders and regulations for preventing or restricting disease may only apply to individuals and businesses that have been medically diagnosed with or come into direct contact with someone who has been medically diagnosed with the disease or have a documented incident of the disease in the building.
- Terminates the current state of emergency July 23, 2021, unless extended by the General Assembly by concurrent resolution, and prohibits the Governor from reissuing a state of emergency until September 21, 2021, unless approved by the General Assembly by adopting a concurrent resolution.
- Subjects existing emergency orders and rules issued in response to a state of emergency, and certain orders and rules issued by ODH or actions taken by the Director of Health to review by the Committee and rescission by the General Assembly.

DETAILED ANALYSIS

Repeal of S.B. 22 provisions

The bill repeals S.B. 22 and returns the law to its pre-S.B. 22 state. Below is a summary discussion of the repealed provisions. For a more detailed discussion of the provisions, see the [LSC Analysis of S.B. 22, As Passed by the General Assembly](#).

State of emergency

Duration; extension; termination

The bill repeals the limitation S.B. 22 placed on the duration of a state of emergency declared by the Governor (90 days, unless extended by the General Assembly), and repeals the corresponding provisions allowing the General Assembly to terminate a state of emergency or

extend (numerous times, for up to 60 days each time) a state of emergency by adopting a concurrent resolution.¹

Governor and ODH report to General Assembly during emergency

The bill repeals the provision in S.B. 22 requiring, during a state of emergency, the Governor and Department of Health (ODH) to report every action to the Senate President and Speaker of the House that the Governor or ODH takes in response to the emergency.²

Authority of the General Assembly during emergency

The bill repeals a S.B. 22 provision that would allow the General Assembly, beginning the day a state of emergency is declared, to do any of the following by adopting a concurrent resolution:³

- Rescind, in whole or in part, any order or rule issued or adopted by the Governor, Lieutenant Governor, Secretary of State, Auditor of State, Attorney General, or Treasurer of State; by an administrative department or administrative department head; or by a state agency in response to the state of emergency, including an order authorizing an agency to adopt, amend, or rescind rules on an emergency basis;
- Invalidate, in whole or in part, a rule adopted or amended on an emergency basis by an agency in response to the state of emergency;⁴
- Authorize a rule rescinded by an agency, in response to the state of emergency, to be readopted, in whole or in part.⁵

Orders and rules challenged in court

The bill repeals a provision of S.B. 22 that authorizes a person who challenges an order or rule issued in response to a state of emergency, in a civil action for damages, declaratory judgment, injunctive relief, or other appropriate relief, to do so in the county where the person's residence or business is located. And, the bill repeals a provision that would require the state to pay reasonable attorney's fees and court costs on behalf of a person who successfully challenges an order or rule.⁶

¹ R.C. 107.42, repealed by the bill.

² R.C. 107.43(B), repealed by the bill.

³ R.C. 107.43(C)(1), repealed by the bill, and 106.022, 111.15, and 119.03 (restored to pre-S.B. 22 versions).

⁴ This applies to emergency rules adopted under the Administrative Procedure Act (see R.C. 119.03(G)(1)) or under the abbreviated rulemaking procedure (see R.C. 111.15(B)(2)).

⁵ This applies to emergency rules adopted by an agency under the Administrative Procedure Act (see R.C. 119.03(G)(1)).

⁶ R.C. 107.43(D), repealed by the bill and 2743.03 (restored to pre-S.B. 22 version).

Ohio Health Oversight and Advisory Committee

The bill repeals a provision of S.B. 22 that establishes the Ohio Health Oversight and Advisory Committee, including repealing the appointment procedures and duties of the Committee.⁷

Authority of ODH and local boards of health

Authority of the General Assembly regarding ODH orders or rules

The bill repeals a provision of S.B. 22 that allows the General Assembly to rescind a special or standing order or rule for preventing the spread of contagious or infectious disease issued by ODH under R.C. 3701.13, or an action taken by the Director of Health to investigate, make inquiry, and take prompt action to control and suppress the cause of disease or illness, including contagious, infectious, epidemic, pandemic, or endemic conditions, under R.C. 3701.14. Under S.B. 22, at any time after ODH issues a special or standing order or rule, or the Director takes an action described above, the General Assembly may rescind that standing order or rule or action, in whole or in part, by adopting a concurrent resolution.⁸

Quarantine and isolation

The bill restores the word “ultimate” to the law describing ODH’s authority over matters of quarantine and isolation.⁹ It also removes definitions of the terms quarantine and isolation as they relate to the authority of ODH and boards of health of city and general health districts.¹⁰ Under S.B. 22, “isolation” is defined as “the separation of one or more individuals who have been medically diagnosed with a communicable or contagious disease from other individuals who have not been medically diagnosed with the disease,” and “quarantine” is defined as “the separation or restriction of movement of one or more individuals who have come into direct contact with someone who has been medically diagnosed with a communicable or contagious disease.”¹¹

Additionally, the bill repeals a provision of S.B. 22 that specifies that the authority of ODH over matters related to the preservation of the life and health of the people is superior to the authority of boards of health of city and general health districts or another authority that has the power of a local board of health.¹²

⁷ R.C. 103.65 and 103.651, repealed by the bill.

⁸ R.C. 101.36, repealed by the bill.

⁹ R.C. 3701.13. The bill retains technical changes made to R.C. 3701.13 by S.B. 22 for organizational purposes.

¹⁰ R.C. 3707.01.

¹¹ R.C. 3701.13.

¹² R.C. 3701.13.

Local boards of health

Quarantine and isolation orders

The bill repeals a provision of S.B. 22 that specifies that a local board of health may only issue a quarantine and isolation order that applies to individuals who have been medically diagnosed with or have come into direct contact with someone who has been medically diagnosed with the disease that is the subject of the order.¹³

School closures and prohibitions on public gatherings

The bill repeals a provision of S.B. 22 that eliminates the authority of a local board of health to generally close schools and prohibit public gatherings during an epidemic or threatened epidemic.¹⁴

Orders and regulations for the public health

In addition to repealing the requirements regarding quarantine and isolation orders issued by a local board of health established in S.B. 22, the bill also repeals a provision that specifies that a local board of health may issue orders or regulations that apply only to specific individuals or businesses and that any order that applies to a class of persons in violation of this provision is invalid and has no legal effect.¹⁵

Impact of the act on existing declarations, orders, rules, and actions

Beginning June 23, 2021, S.B. 22 allows the General Assembly to terminate, via concurrent resolution, any state of emergency in existence at that time. If not terminated by the General Assembly, a state of emergency terminates by operation of law on July 23, 2021, unless extended by the General Assembly by concurrent resolution. And, beginning June 23, 2021, S.B. 22 subjects orders, rules, and actions to review by the Committee and rescission by the General Assembly. The bill repeals these provisions.¹⁶

HISTORY

Action	Date
Introduced	04-22-21

H0269-I-134/ec

¹³ R.C. 3707.11, repealed by the bill.

¹⁴ R.C. 3707.26.

¹⁵ R.C. 3707.54, 3709.212, and 3709.50, repealed by the bill.

¹⁶ Section 3 of S.B. 22, repealed by the bill.