

# House Bill 2399

Sponsored by Representative LEWIS; Representatives CATE, LEVY B, OWENS (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that declarations and extensions of states of emergency under certain statutes be accompanied by written explanations.

Establishes durational limits for states of emergency declared under certain statutes. Provides that certain extensions of states of emergency may be made only if Governor first convenes Legislative Assembly.

Provides that emergency rules and orders expire upon termination of state of emergency.

Provides that, after termination of state of emergency, Governor may not declare another state of emergency for same purpose unless so authorized by Legislative Assembly.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to declarations of emergency; amending ORS 401.165, 401.192, 401.204 and 433.441; and  
3 prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 401.165 is amended to read:

6 401.165. (1)(a) The Governor by proclamation may declare a state of emergency at the request  
7 of a county governing body or after determining that an emergency has occurred or is imminent.

8 **(b) A declaration of emergency under this section is valid only if, at the time of the**  
9 **declaration, the Governor issues a written, public statement setting forth the reasons for the**  
10 **declaration and the geographic scope of the declaration. The statement must contain specific**  
11 **facts in support of its conclusions.**

12 (2) All requests by a county governing body that the Governor declare an emergency shall be  
13 sent to the Oregon Department of Emergency Management. Cities must submit requests through the  
14 governing body of the county in which the majority of the city's property is located. Requests from  
15 counties shall be in writing and include the following:

16 (a) A certification signed by the county governing body that all local resources have been ex-  
17 pended; and

18 (b) A preliminary assessment of property damage or loss, injuries and deaths.

19 (3)(a) If, in the judgment of the Director of the Oregon Department of Emergency Management,  
20 the Governor cannot be reached by available communications facilities in time to respond appro-  
21 priately to an emergency, the director shall notify the Secretary of State or, if the Secretary of State  
22 is not available, the State Treasurer that the Governor is not available.

23 (b) After notice from the director that the Governor is not available, the elected state official  
24 so notified may declare a state of emergency pursuant to the provisions of subsections (1) and (2)  
25 of this section.

26 (c) If the director is unavailable to carry out the duties described in this subsection, such duties  
27 shall be performed by the Adjutant General.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 (4) Any state of emergency declared by the Secretary of State or State Treasurer pursuant to  
 2 this section has the same force and effect as if declared by the Governor, except that it must be  
 3 affirmed by the Governor as soon as the Governor is reached. However, if the Governor does not  
 4 set aside the declaration within 24 hours of being reached, the declaration shall be considered af-  
 5 firmed by the Governor.

6 (5) Any declaration of a state of emergency must specify the geographical area covered by the  
 7 declaration. Such area shall be no larger than necessary to effectively respond to the emergency.

8 (6) The governing body of each county shall establish a procedure for receiving, processing and  
 9 transmitting to the Oregon Department of Emergency Management, in a timely manner, a request  
 10 submitted by a city that the Governor declare a state of emergency.

11 **SECTION 2.** ORS 401.204 is amended to read:

12 **401.204. (1) A state of emergency declared under ORS 401.165 or 433.441 terminates 60**  
 13 **days after the state of emergency is first declared, unless extended under subsection (2) or**  
 14 **(3) of this section.**

15 **(2) During the state of emergency, the Governor may extend the state of emergency by**  
 16 **a maximum of 30 days. The Governor may extend the state of emergency only once under**  
 17 **this subsection.**

18 **(3)(a) Notwithstanding subsection (2) of this section, during the state of emergency, the**  
 19 **Governor may extend the state of emergency by a maximum of 60 days if the Governor first**  
 20 **convenes the Legislative Assembly under Article V, section 12, of the Oregon Constitution.**  
 21 **There is no limit to the number of times the Governor may extend the state of emergency**  
 22 **under this subsection, but the Governor must convene the Legislative Assembly before each**  
 23 **extension under this subsection.**

24 **(b) The Governor is not required to convene the Legislative Assembly to extend a state**  
 25 **of emergency under this subsection if the Legislative Assembly is in session at the time of**  
 26 **the extension.**

27 **(4) An extension of a state of emergency under subsection (2) or (3) of this section is**  
 28 **valid only if, at the time of the extension, the Governor issues a written, public statement**  
 29 **setting forth the circumstances necessitating an extension. The statement must contain**  
 30 **specific facts in support of its conclusions.**

31 **[(1)] (5) The Governor shall terminate the state of emergency by proclamation when the emer-**  
 32 **gency no longer exists, or when the threat of an emergency has passed.**

33 **[(2)] (6) The state of emergency proclaimed by the Governor may be terminated at any time by**  
 34 **joint resolution of the Legislative Assembly.**

35 **(7) After the state of emergency terminates, the Governor may not declare another state**  
 36 **of emergency for the same purpose unless so authorized by joint resolution of the Legislative**  
 37 **Assembly.**

38 **SECTION 3.** ORS 401.192 is amended to read:

39 **401.192. (1) All rules and orders issued under authority conferred by ORS 401.165 to 401.236**  
 40 **shall have the full force and effect of law [both] during [and after] the declaration of a state of**  
 41 **emergency. All existing laws, ordinances, rules and orders inconsistent with ORS 401.165 to 401.236**  
 42 **shall be inoperative during the period of time and to the extent such inconsistencies exist.**

43 **(2) The authority exercised under ORS 401.165 to 401.236 may be exercised with respect to the**  
 44 **entire territory over which the Governor has jurisdiction, or to any specified part thereof.**

45 **(3) When real or personal property is taken under power granted by ORS 401.188, the owner of**

1 the property shall be entitled to reasonable compensation from the state.

2 (4) *[The powers]* **Rules or orders issued under authority** granted to the Governor by ORS  
3 401.165 to 401.236 *[shall continue until]* **expire upon** termination of the state of emergency. The  
4 powers granted to the Governor by ORS 401.185 may continue beyond the termination of the state  
5 of emergency and *[shall]* **may** be terminated by proclamation of the Governor or by joint resolution  
6 of the Legislative Assembly.

7 **SECTION 4.** ORS 433.441 is amended to read:

8 433.441. (1) Upon the occurrence of a public health emergency, the Governor may declare a state  
9 of public health emergency as authorized by ORS 433.441 to 433.452 to protect the public health.

10 (2) A declaration of a state of public health emergency must specify, **with reference to specific**  
11 **facts in support of its conclusions:**

12 (a) The nature of the public health emergency;

13 (b) The political subdivision or geographic area subject to the declaration;

14 (c) The conditions that have brought about the public health emergency; and

15 (d) The duration of the state of public health emergency, if the duration is less than *[14]* **60** days.

16 (3) During a declared public health emergency, the Governor may:

17 (a) Close[,] **or** order the evacuation of or order the decontamination of any facility the Governor  
18 has reasonable cause to believe may endanger the public health.

19 (b) Regulate or restrict by any means necessary the use, sale or distribution of food, fuel, med-  
20 ical supplies, medicines or other goods and services.

21 (c) Prescribe modes of transportation, routes and destinations required for the evacuation of  
22 individuals or the provision of emergency services.

23 (d) Control or limit entry into, exit from, movement within and the occupancy of premises in any  
24 public area subject to or threatened by a public health emergency if such actions are reasonable  
25 and necessary to respond to the public health emergency.

26 (e) Authorize pharmacists licensed under ORS chapter 689 to administer vaccines to persons  
27 who are three years of age or older.

28 (f) Take any other action that may be necessary for the management of resources, or to protect  
29 the public during a public health emergency, including any actions authorized under ORS 401.168,  
30 401.185, 401.188 and 401.192.

31 (4) Nothing in ORS 433.441 to 433.452 limits the authority of the Governor to declare a state  
32 of emergency under ORS 401.165. If a state of emergency is declared as authorized under ORS  
33 401.165, the Governor may implement any action authorized by ORS 433.441 to 433.452.

34 *[(5) A declaration of a state of public health emergency expires when terminated by a declaration*  
35 *of the Governor or no more than 14 days after the date the public health emergency is declared unless*  
36 *the Governor expressly extends the declaration for an additional 14-day period.]*

37 **(5) A public health emergency declared under this section is subject to the durational**  
38 **limits and other provisions of ORS 401.204.**

39 **(6) Rules or orders issued under authority granted by ORS 433.441 to 433.452 expire upon**  
40 **termination of the state of emergency.**

41 *[(6)]* (7) When real or personal property is taken under power granted by this section, the owner  
42 of the property shall be entitled to reasonable compensation from the state.

43 **SECTION 5. This 2023 Act takes effect on the 91st day after the date on which the 2023**  
44 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**