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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 101

01/14/2021 Authored by Green, Poston, Erickson, Novotny, Quam and others
The bill was read for the first time and referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act
1.2 relating to state government; proposing an amendment to the Minnesota
1.3 Constitution article V, section 3; declaring an emergency; repealing Minnesota
1.4 Statutes 2020, section 12.31, subdivisions 1, 2, 3.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. CONSTITUTIONAL AMENDMENT PROPOSED.

1.7 An amendment to the Minnesota Constitution is proposed to the people. If the amendment
1.8 is adopted, article V, section 3, will read:

1.9 Sec. 3. The governor shall communicate by message to each session of the legislature
1.10 information touching the state and country. He is commander-in-chief of the military and
1.11 naval forces and may call them out to execute the laws, suppress insurrection and repel
1.12 invasion. He may require the opinion in writing of the principal officer in each of the
1.13 executive departments upon any subject relating to his duties. With the advice and consent
1.14 of the senate he may appoint notaries public and other officers provided by law. He may
1.15 appoint commissioners to take the acknowledgment of deeds or other instruments in writing
1.16 to be used in the state. He shall take care that the laws be faithfully executed. He shall fill
1.17 any vacancy that may occur in the offices of secretary of state, auditor, attorney general and
1.18 the other state and district offices hereafter created by law until the end of the term for which
1.19 the person who had vacated the office was elected or the first Monday in January following
1.20 the next general election, whichever is sooner, and until a successor is chosen and qualified.

1.21 The governor may declare an emergency that shall last for a period of seven days unless
1.22 an extension is authorized by the legislature. Before the seven days lapse, the legislature
1.23 may authorize the governor to continue the emergency declaration if the governor requests

2.1 the emergency declaration continue beyond the seven days. If the legislature is not sitting
 2.2 in session, the governor must issue a call immediately convening both houses of the
 2.3 legislature. Both houses of the legislature must approve by a majority vote a continuation
 2.4 of the governor's emergency declaration for up to 30 days. A majority "no" vote from either
 2.5 house means the emergency declaration ends when the seven days have lapsed. If the
 2.6 legislature approves the extension of the emergency declaration for up to 30 days and the
 2.7 governor requests another extension beyond that time, the governor must issue a call
 2.8 convening both houses of the legislature if the legislature is not sitting in session before the
 2.9 additional time period under the emergency declaration lapses. In order to extend the
 2.10 emergency declaration, both houses must approve the continuation of the emergency
 2.11 declaration for up to 30 days. A majority "no" vote in either house means the emergency
 2.12 declaration ends at the end of the 30-day extension.

2.13 **Sec. 2. SUBMISSION TO VOTERS.**

2.14 The proposed amendment must be submitted to the people at the 2022 general election.
 2.15 If ratified, the amendment is effective January 1, 2023. The question submitted must be:

2.16 "Shall the Minnesota Constitution be amended to limit the governor's emergency
 2.17 declaration to seven days prior to legislative approval?"

2.18 Yes
 2.19 No "

2.20 **Sec. 3. REPEALER.**

2.21 Minnesota Statutes 2020, section 12.31, subdivisions 1, 2, and 3, are repealed if the
 2.22 constitutional amendment proposed to the people in section 1 is adopted in the 2022 general
 2.23 election.

2.24 **Sec. 4. REVISOR INSTRUCTION.**

2.25 The revisor of statutes must correct cross-references and make any corresponding
 2.26 language changes as a result of the repeal in section 3.

12.31 NATIONAL SECURITY OR PEACETIME EMERGENCY; DECLARATION.

Subdivision 1. **Declaration of national security emergency.** When information from the President of the United States, the Federal Emergency Management Agency, the Department of Defense, or the National Warning System indicates the imminence of a national security emergency within the United States, which means the several states, the District of Columbia, and the Commonwealth of Puerto Rico, or the occurrence within the state of Minnesota of a major disaster from enemy sabotage or other hostile action, the governor may, by proclamation, declare that a national security emergency exists in all or any part of the state. If the legislature is then in regular session or, if it is not, if the governor concurrently with the proclamation declaring the emergency issues a call convening immediately both houses of the legislature, the governor may exercise for a period not to exceed 30 days the powers and duties conferred and imposed by sections 12.31 to 12.37 and 12.381. The lapse of these emergency powers does not, as regards any act occurring or committed within the 30-day period, deprive any person, political subdivision, municipal corporation, or body politic of any right to compensation or reimbursement that it may have under this chapter.

Subd. 2. **Declaration of peacetime emergency.** (a) The governor may declare a peacetime emergency. A peacetime declaration of emergency may be declared only when an act of nature, a technological failure or malfunction, a terrorist incident, an industrial accident, a hazardous materials accident, or a civil disturbance endangers life and property and local government resources are inadequate to handle the situation. If the peacetime emergency occurs on Indian lands, the governor or state director of emergency management shall consult with tribal authorities before the governor makes such a declaration. Nothing in this section shall be construed to limit the governor's authority to act without such consultation when the situation calls for prompt and timely action. When the governor declares a peacetime emergency, the governor must immediately notify the majority and minority leaders of the senate and the speaker and majority and minority leaders of the house of representatives. A peacetime emergency must not be continued for more than five days unless extended by resolution of the Executive Council up to 30 days. An order, or proclamation declaring, continuing, or terminating an emergency must be given prompt and general publicity and filed with the secretary of state.

(b) By majority vote of each house of the legislature, the legislature may terminate a peacetime emergency extending beyond 30 days. If the governor determines a need to extend the peacetime emergency declaration beyond 30 days and the legislature is not sitting in session, the governor must issue a call immediately convening both houses of the legislature. Nothing in this section limits the governor's authority over or command of the National Guard as described in the Military Code, chapters 190 to 192A, and required by the Minnesota Constitution, article V, section 3.

Subd. 3. **Effect of declaration of peacetime emergency.** A declaration of a peacetime emergency in accordance with this section authorizes the governor to exercise for a period not to exceed the time specified in this section the powers and duties conferred and imposed by this chapter for a peacetime emergency and invokes the necessary portions of the state emergency operations plan developed pursuant to section 12.21, subdivision 3, relating to response and recovery aspects and may authorize aid and assistance under the plan.