

Department of Planning and Budget
2020 Special Session I - Fiscal Impact Statement

1. Bill Number: SB5048

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Peake

3. Committee: General Laws and Technology

4. Title: Emergency Services and Disaster Law; powers and duties of the Governor.

5. Summary: This bill prohibits the Governor from extending or issuing any new executive orders declaring a state of emergency related to the COVID-19 pandemic.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Preliminary. See Item 8 below.

8. Fiscal Implications: Pursuant to § 44-146.17 (pertains to the powers and duties of the Governor under the Emergency Services and Disaster Law), when a state of emergency has been declared in the Commonwealth by the Governor of Virginia, the Governor may, by Executive Order, grant certain powers and authority to state agencies. It is not uncommon for these Executive Orders to provide authority for agencies to waive certain state requirements or regulations (not required by law), and they usually allow agencies to enter into contracts for emergency procurements to address emergency needs without regard to normal procedures or formalities.

Normally, these provisions expire with the expiration of the Executive Order, or if not specified in the Executive Order, at June 30, following the next regular session of the General Assembly. Most Executive Orders are in effect only for thirty days, unless amended or rescinded by further executive order. However, there are events that may require emergency response beyond thirty days, such as a public health emergency.

In the case of a presidentially declared disaster, the Federal Emergency Management Agency (FEMA) generally provides financial assistance under various programs to the Commonwealth. Under these programs, eligible disaster-related costs are typically split 75 percent/25 percent between FEMA and the Commonwealth respectively. FEMA guidelines provide that it will reimburse eligible expenses for procurements made in accordance with the provisions of each state's procurement policies.

According to the Virginia Department of Emergency Management (VDEM), to comply with the provisions of this bill and to ensure that Virginia will continue to be reimbursed for FEMA eligible expenses, procurement policies would have to revert back to non-emergency procurement rules after an Executive Order expires.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Emergency Management

10. Technical Amendment Necessary: None

11. Other Comments: None