

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

1. Bill Number: SB5111

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: McDougale

3. Committee: General Laws and Technology

4. Title: Emergency Services and Disaster Law; limitation on duration of executive orders.

5. Summary: Except for emergency plans issued to prescribe actions to be taken in the event of disasters and emergencies, current law provides that rules, regulations, and orders including executive orders issued by the Governor pursuant to his powers under the Emergency Services and Disaster Law are effective until June 30 following the next regular session of the General Assembly unless an earlier termination date is specified. Current law allows the same or similar rule, regulation, or order to be reissued as long as it is not contrary to law.

This bill limits the duration of any rule, regulation, or order issued by the Governor pursuant to his powers under the Emergency Services and Disaster Law to no more than 30 days from the date of issuance. The bill provides that if the General Assembly does not take any action on the rule, regulation, or order within the 30 days during which it is effective, the Governor is prohibited from issuing the same or a similar rule, regulation, or order relating to the same emergency.

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