**South Carolina General Assembly**

124th Session, 2021-2022

**S. 104**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Campsen, Malloy, Rice, Hembree and Kimbrell

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Introduced in the Senate on January 12, 2021

Currently residing in the Senate Committee on **Judiciary**

Summary: Emergency Order Balance of Powers Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2020 Senate Prefiled

12/9/2020 Senate Referred to Committee on **Judiciary**

1/12/2021 Senate Introduced and read first time ([Senate Journal‑page 174](file:///h:\sj\20210112.docx))

1/12/2021 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 174](file:///h:\sj\20210112.docx))

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\104_20201209.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “EMERGENCY ORDER BALANCE OF POWERS ACT” BY AMENDING SECTIONS 1‑3‑420 AND 25‑1‑440, BOTH RELATING TO A PROCLAMATION OF AN EMERGENCY BY THE GOVERNOR, SO AS TO SET FORTH ACTIONS THAT WOULD MAKE THE PROCLAMATION INEFFECTIVE AND TO ALLOW THE GOVERNOR TO RENEW A STATE OF EMERGENCY IN PERIODS OF NO GREATER THAN FIFTEEN DAYS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Emergency Order Balance of Powers Act”.

SECTION 2. Section 1‑3‑420 of the 1976 Code is amended to read:

“Section 1‑3‑420. (A) The Governor, when in his opinion the facts warrant, shall, by proclamation, declare that, because of unlawful assemblage, violence or threats of violence, or a public health emergency, as defined in Section 44‑4‑130, a danger exists to the person or property of any citizen and that the peace and tranquility of the State, or any political subdivision thereof, or any particular area of the State designated by him, is threatened, and because thereof an emergency, with reference to such threats and danger, exists.

(B) The Governor, upon the issuance of a proclamation as provided for in this section, must immediately file the proclamation in the Office of the Secretary of State, which proclamation is effective upon issuance and remain in full force and effect until revoked by:

(1) the Governor;

(2) the General Assembly with the adoption of a concurrent resolution; or

(3) if the President of the Senate and the Speaker of the House determine it is not practical or possible to convene the General Assembly, then by a written statement to both the Governor and the Secretary of State, by the President of the Senate and the Speaker of the House.

(C) If there is a vacancy in the office of the President of the Senate, then the duties that may be discharged by the President of the Senate in this section may be discharged by the Chairman of the Senate Rules Committee, and if that office is vacant, then by the Chairman of the Senate Finance Committee. If there is a vacancy in the office of Speaker of the House, then the duties that may be discharged by the Speaker of the House in this section may be discharged by the Speaker Pro Tempore of the House, and if that office is vacant, then by the Chairman of the House Rules Committee.”

SECTION 3. Section 25‑1‑440(a)(2) of the 1976 Code is amended to read:

“(2) declare a state of emergency for all or part of the State if he finds a disaster or a public health emergency, as defined in Section 44‑4‑130, has occurred, or that the threat thereof is imminent and extraordinary measures are considered necessary to cope with the existing or anticipated situation. A declared state of emergency shall not continue for a period of more than fifteen days ~~without the consent of the General Assembly~~ unless renewed by the Governor for no more than fifteen‑day periods. A declared state of emergency also shall terminate upon the earlier of:

(i) the termination date established by the Governor in an executive order;

(ii) the termination date established by the General Assembly in a concurrent resolution; or

(iii) if the President of the Senate and the Speaker of the House determine it is not practical or possible to convene the General Assembly, then the termination date established in a written statement to both the Governor and the Secretary of State, by the President of the Senate and the Speaker of the House.

If there is a vacancy in the office of the President of the Senate, then the duties that may be discharged by the President of the Senate in this item may be discharged by the Chairman of the Senate Rules Committee, and if that office is vacant, then by the Chairman of the Senate Finance Committee. If there is a vacancy in the office of Speaker of the House, then the duties that may be discharged by the Speaker of the House in this item may be discharged by the Speaker Pro Tempore of the House, and if that office is vacant, then by the Chairman of the House Rules Committee;”

SECTION 4. This act takes effect upon approval by the Governor.

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