

Legislative Analysis



REPEAL EMERGENCY POWERS OF GOVERNOR ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 857 as enrolled

Sponsor: Sen. Tom Barrett

House Committee: Government Operations

Senate Committee: Government Operations [Discharged]

Complete to 1-2-21

Analysis available at
<http://www.legislature.mi.gov>

(Vetoed by the Governor 12-30-20)

SUMMARY:

Senate Bill 857 would repeal 1945 PA 302, commonly known as the emergency powers of the governor act, which authorizes the governor to proclaim an emergency and prescribes his or her powers and duties with respect to that emergency.

On October 2, 2020, in a 4–3 opinion, the Michigan Supreme Court ruled that 1945 PA 302 is an unconstitutional delegation of legislative power.

The act authorizes the governor to proclaim a state of emergency, and designate the area involved, during times of a public crisis, disaster, or emergency, either on his or her own or at the request of a mayor, a sheriff, or the director of the Department of State Police. After making such a declaration, the governor can promulgate reasonable orders, rules, and regulations as he or she considers necessary to protect life and property or to bring the emergency situation under control, except those that involve the taking of lawfully possessed firearms, ammunition, or other weapons. An order, rule, or regulation can specify its violation to be a misdemeanor. The orders, rules, and regulations can be amended by the governor and end when the declared state of emergency ends.

The bill would repeal 1945 PA 302.

MCL 10.31 to 10.33 (repealed)

FISCAL IMPACT:

The bill would have no fiscal impact on the state or local units of government.

Legislative Analyst: Rick Yuille
Fiscal Analyst: Ben Gielczyk

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