

Declaration of A Public Health Emergency Committee

MEETING MINUTES

Friday, September 4, 2020

8:00 AM in Room 2E of the LOB

The meeting was called to order at 8:05 AM by Chairman, Sen. Looney M. S11.

The following committee members were present:

Senators: Daugherty Abrams M. S13; Duff B. S25; Fasano L. S34; Looney M. S11; Somers H. S18

Representatives: Aresimowicz J. 030; Klarides T. 114; Petit W. 22; Ritter M. 001; Steinberg J. 136

Senator Looney convened the meeting and stated that the Declaration of a Public Health Emergency Committee consists of ten members and that the purpose of this meeting was to consider the Governor's Declaration of a Public Health Emergency. He stated that the Committee will discuss the Declaration which would be extended from September 9th, 2020 to February 9th, 2021. He then opened the floor up to other members.

Representative Aresimowicz thanked Senator Looney and stated that the only action available to the Committee is to reject the Governor's declaration. He stated that this meeting was not expected to occur because of successful COVID-19 results but it is the responsibility of the legislative branch to discuss the situation.

Senator Fasano explained that the last meeting in March when the Governor first declared a public health emergency was important because COVID-19 is a historic event and practices being recorded are valuable for future legislatures to look back on. He stated that the meeting today is just as important because we are still in a pandemic and it is important for future leaders to know what we went through.

Representative Ritter stated as clarification for the public and the Committee that the only option they have is to nullify the Governor's Declaration of Civil Preparedness and Public Health Emergencies. He furthered that the Committee cannot, for example, change the time frame of the extension which would be done by amending the statute. Senator Looney confirmed.

Senator Fasano asked for clarification on whether the Governor's Declaration of a Public Health Emergency or the Governor's Declaration of Civil Preparedness and Public Health Emergencies is being voted on today. Representative Aresimowicz stated the Governor's Declaration of a Public Health Emergency is what is being voted on by

the Committee and Representative Ritter apologized for the confusion. Senator Looney stated that the Governor's Declaration of Civil Preparedness can only be voted on by the Committee if the disaster at hand is manmade, which COVID-19 is not. Senator Fasano wanted to note that as a result of that, the Governor has broad powers under this statute. Senator Looney confirmed and explained that power of that magnitude is necessary to allow for strong and immediate executive action in dealing with the crisis declared as an emergency by the Governor.

Representative Klarides stated that the reason the Committee is meeting is to determine all of the choices available, not just to decide to keep things the same as they are or go back to life pre-COVID. Representative Aresimowicz stated in 2010 that a bill was passed allowing the Governor to declare public health emergencies by all of the government branches and that all members of this Committee that were legislators at that time voted for it. He furthered that other legislatures in the U.S. have a full-time legislature, but that Connecticut does not so the legislature is not structured to handle an emergency, the executive branch is. He stated that he is happy to discuss, but unsure which or what part of the Governor's emergency orders leaders are upset about.

Senator Fasano stated that the lack of communication with the Governor's office has led to legislators' frustration and that he believes the Governor's Declaration of Civil Preparedness has given the Governor limitless power, so there may be no need for the Governor's Declaration of a Public Health Emergency. Representative Ritter responded that the Governor should be given credit for invoking this meeting to give the legislature, represented by the committee, input. Senator Fasano stated that even if the committee nullifies the Governor's Declaration of a Public Health Emergency, he can still continue on with his powers under the Governor's Declaration of Civil Preparedness.

Senator Duff stated that his constituents are asking to be kept healthy and safe and that the conversation that has been going on has been about process, not what will keep the citizens of Connecticut safe. He explains that the government has been successful in keeping citizens healthy and safe by continuing to mandate masks and being responsible. He stated that he believes prioritizing constituents' health and safety is what needs to continue because no one knows how long the pandemic will continue to go on.

Representative Klarides stated that the way we operate executive orders now should be different than when the COVID-19 pandemic first happened in March of 2020. She furthered that the executive orders now should be limited and focused on public health, not broad like the Governor's Declaration of Civil Preparedness. She clarified that she knows there is a public health emergency, that masks still have to be worn, social distancing still has to happen, but that giving power to one person to make decisions means that legislators are not representing their constituents. Representative Aresimowicz responded by reiterating that the only option available today for the Committee is to reject the Governor's Declaration of a Public Health Emergency. He furthered that only 31 percent of the Governor's emergency executive orders imposed a

new thing, and 69 percent relaxed statutes and that if the Governor's Declaration of a Public Health Emergency is rejected today, there will be very little or any rules in place to keep people safe.

Representative Ritter asked other Committee members what executive orders they want removed because the General Assembly will meet in a limited special session and a law could be passed to get rid of executive orders. Senator Fasano stated that he would have done research if he had known that that question was going to be asked, but he challenged Representative Aresimowicz's statement that everything would go back to pre-COVID if the committee voted to reject the Governor's Declaration of a Public Health Emergency because the Governor's Declaration of Civil Preparedness will still be in place. He asked what the metrics are to enter into phase III of Connecticut reopening because it was said that if the State's COVID-19 positivity rate got below 3 percent that Connecticut could reopen, but there has been no movement from phase II or discussion of any leaders of what can change even though the positivity rate is 0.8 percent. Representative Klarides emphasized that what the government needs to adjust to is Connecticut in September, not Connecticut in March. She explained that she does not understand why the committee has to agree to continue these executive orders because right now the Governor has the ability to change anything he wants in any way he wants.

Senator Duff stated that almost an hour has been spent discussing process and not what is the state doing to keep citizens safe. He furthered that this meeting should have taken thirty seconds, that the state is doing well with COVID-19 and reopening the economy and that the Governor has been doing a good job. He states that we have seen what the Governor has done with this broad power over the last six months and that he has been careful and judicious in his actions and that the people need to see that the legislature and the executive branch are working together.

Representative Ritter stated that the Governor's Declaration of a Public Health Emergency is an important element in upholding the executive orders in place as a result of the Governor's Declaration of Civil Preparedness. He restated that the Legislature can override executive orders if there are specific ones that they want removed, but that the Governor has done well because he listens to the metrics. He explained that he understands the legislature is not as powerful as it normally is, but that there could be another COVID-19 flareup at any time, especially with flu season and there still being no vaccine, and that now is not the time to change things. He furthered that he understands concerns about how long the extension of the Governor's Declaration of a Public Health Emergency is, but that leaving everything in place is the most rational choice.

Senator Fasano stated that he objects an executive order from the day before or this morning that halted personal protective equipment for home health aides. He explained that discussing process is what the government is and that means that we care about the institution. Senator Looney thanked Senator Fasano.

Representative Steinberg thanked Senator Looney for clearing up what point of the agenda the committee is on. He stated that he cares about process and that the Legislature has been a constant part of this process even though the Governor has the dominant role in decisions currently. He furthered that the Public Health Committee has been on weekly calls, has had public hearings and meetings with the Department of Public Health, and more. He explained that this emergency is not over and that the opportunity to relax is not right now because there is still no vaccine. He stated that the nursing home response was not the best, but not any worse than other states and that we need to be ready if there is a resurgence in the fall. He explains that the focus now is on what to do in the meantime before a vaccine is available and that legislation may be considered for special session.

Representative Petit thanked Senator Looney and stated that he feels from the meeting that the members of the committee are a lot closer than he originally thought. He expressed concern to Senator Duff about nursing home visitation and immunity at nursing homes as well as on process. He agreed that the Governor has done a good job, but that the legislature needs to have a more direct voice because the people of Connecticut have kept their end of the deal and have been mentally, spiritually, and financially drained. He furthered that no matter how well intentioned the Governor is, the people need to have more direct input and without the emergency powers the Governor can still order executive orders. He stated that we need to move forward and gain back personal liberties.

Senator Abrams thanked Senator Looney and explained that the criteria members use in making their vote today is based in science and in the best interest of the public health and safety of the state. She commended the Governor for how he has led the state and stated that it would be a mistake to think that the crisis is over or that we know how to combat COVID-19. She furthered that the executive is best equipped to take swift and deliberate action and that the idea that 187 members of the legislature could come together to take action is not realistic. She stated that it is clear to her that the Governor's Declaration of a Public Health Emergency needs to be extended and that she will continue as the Senate chair of Public Health to work with the executive branch to face the challenges ahead. She thanked healthcare providers, essential workers, educators, parents, and the state agencies for working through this time.

Senator Somers stated that she worked in science and that she is very familiar with these types of viruses from her career. She furthered that she knows how necessary it was for the Governor to be given the power to make quick decisions in March and that even though numbers have declined, a pandemic can last three to four years. She stated that there are people making decisions that do not have science backgrounds and that ranking members on the Public Health Committee have not been included in decisions in meetings. She explained that that needs to change and that a lack of communication between the Public Health Committee and the Governor's office led to members of the National Guard and Department of Public Health inspectors not being

tested for COVID-19 before they were sent into nursing homes. She said that not extending the Governor's Declaration of a Public Health Emergency will ensure that one person is not ruling the State and that communication will continue with the Governor. She stated that she is willing to go in and change statutes and that extending the Governor's power will tie the hands of the next legislature that comes in in January 2021. She stated that guidelines have been met for phase III of reopening, but that nothing has happened and that it is time for the legislature to get back to being the voice of the people.

Representative Aresimowicz stated this is more about the legislature being upset about not having as much power as the Governor and thanked the Governor for everything he has done with the emergency powers. He explained that his fellow members of the committee should veto executive orders the Governor issues and change the laws if they think we need to.

Senator Fasano stated that he finds it ironic that the legislature can call themselves into special session, but things have been shut down from the pandemic and the people of Connecticut can't go about their business. Senator Fasano yielded to Representative Klarides and she accepted. She explained that she feels like a broken record because she keeps repeating that she does not want to relax or repeal public health parameters because they are working, but that this is about the executive orders we live under now being too broad for the Connecticut of September. She stated that there is a third option that many are not considering.

A motion was made by Representative Klarides to disapprove the Governor's Declaration of a Public Health Emergency and was seconded by Senator Fasano. Representative Aresimowicz asked Representative Klarides where the third option is in statute. Representative Klarides stated that the third option is the committee votes no today to disapprove of what the Governor requested and to go back and collaborate with the Governor to figure out how executive orders can be allowed but not in a broad manner. Representative Aresimowicz stated that none of this came up on Monday when they met with the Governor, that they were informed of his emergency declaration, and that he is going to vote against the motion. Representative Klarides stated that this has been discussed for numerous weeks and that Senator Fasano had an idea to let the Governor suggest what executive orders he was interested in issuing and the legislature provide input. She stated that she was offended by Representative Aresimowicz's statement yesterday and that she was not going to get into who is playing politics right now, but that this is about stopping broad powers. Senator Fasano stated that he sent a letter to the Governor about three weeks ago requesting that if he asks for a four month extension on the emergency declaration that he puts in language that makes it more collaborative. Representative Ritter asked Representative Klarides what emergency order is too broad. Representative Klarides stated that she is not going to name executive orders because she is asking for another forum to discuss and go through the executive orders. She stated that the legislature with the executive branch should have

been making these decisions together and that she sent a letter to Representative Ritter and the other leaders in June to form an executive order review commission, but there was no response.

Senator Duff suggested to the other members of the committee that they vote no on the motion because there is only one option available to continue along the path we have been on for the past six months to keep the people of Connecticut safe and healthy. Senator Looney urged a vote in opposition to the motion and that the Governor has been responsible in the use of his power. He quoted a statement from the Governor that COVID-19 is a pandemic capable of spreading within the state and that emergencies being allowed to expire would heighten risk. He stated that the legislature has the capacity to act and that it has, but that the reality of the situation is that this motion to nullify the Declaration would leave the state unprotected. He explained that the legislature is not in a position to respond like the Governor because, for example, before the primary in August the ballots were not sent out on time and there had to be quick action within less than 48 hours. The Connecticut General Assembly could not have acted in that small of a window and that there could be more incidences like this in the future where swift action from the Governor could be needed. He urged defeat of the motion to disapprove the Governor's Declaration. Senator Fasano stated that if the public health powers are not renewed, all of the executive orders remain in effect because they were issued on the general power.

The motion failed on a roll call vote with 4 voting Yea, 6 voting Nay, 0 Abstaining and 0 Absent and Not Voting.

A motion was duly made by Representative Ritter and seconded by Senator Looney to adjourn the meeting.

The meeting was adjourned at 9:48 AM.

Maggie Shugrue
Legislative Intern