
SENATE BILL 5393

State of Washington

61st Legislature

2009 Regular Session

By Senators Kastama, Haugen, and Fairley

Read first time 01/21/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to establishing the emergency management,
2 preparedness, and assistance account; amending RCW 48.18.170 and
3 48.18.180; adding new sections to chapter 38.52 RCW; creating new
4 sections; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that recent events,
7 including the 2007 floods closing Interstate 5, devastating our
8 citizens in southwestern Washington and costing extreme economic loss
9 due to the Interstate 5 closure, and the winter storms of early 2007,
10 impacting nineteen of our thirty-nine counties, have demonstrated the
11 need for a coordinated, comprehensive all-hazards disaster planning
12 effort. Washington ranks fifteenth in the nation for federally
13 declared disasters with fourteen disasters in the last ten years.
14 Washington state's topography, geography, location, and disaster
15 history place the state at particular risk from both natural disasters
16 and human-caused disasters. The economic impact from just the 2007
17 disasters alone is estimated at over five hundred million dollars. In
18 response, Washington state and its local governments have implemented
19 all-hazards emergency management and disaster response plans. However,

1 recent studies have revealed the lack of a secure funding source
2 impedes our ability statewide from fully integrating and coordinating
3 comprehensive disaster preparedness planning. Local programs suffer
4 disparities in funding and expertise, leaving troublesome gaps in a
5 well-coordinated statewide all-hazards emergency management system.

6 Recognizing that all disasters are local disasters, the legislature
7 therefore intends to strengthen state and local emergency response,
8 mitigation, preparation, and coordination by establishing a stable
9 source of funding. The funding will be dedicated to the development
10 and coordination of state and local government emergency management
11 programs to a recognized baseline standard. The baseline will be
12 determined by a gap analysis of state and local emergency management
13 programs.

14 NEW SECTION. **Sec. 2.** The emergency management, preparedness, and
15 assistance account is created in the state treasury. All receipts from
16 the surcharge authorized by section 3 of this act shall be deposited
17 into the account. Moneys in the account may be spent only after
18 appropriation. Expenditures from the account may be used only as
19 provided in section 4 of this act.

20 NEW SECTION. **Sec. 3.** In order to provide funds for emergency
21 management programs, an annual surcharge of one and one-third percent
22 per policy is imposed on every homeowner's, mobile homeowner's,
23 manufactured homeowner's, tenant homeowner's, and condominium unit
24 owner's insurance policy, and commercial fire, commercial multiple
25 peril, and business owner's property insurance policy, issued or
26 renewed on or after the effective date of this section. The
27 policyholder shall pay the surcharge to the insurer. The insurer shall
28 collect the surcharge and remit it to the department of revenue, which
29 will collect, administer, audit, and enforce the surcharge under
30 chapter 82.32 RCW. The office of the insurance commissioner shall
31 provide to the department of revenue the information needed by the
32 department of revenue to collect the surcharge. The surcharge is not
33 to be considered premiums of the insurer and is not subject to premium
34 taxes, however, nonpayment of the surcharge by the insured may be a
35 valid reason for cancellation of the policy. The surcharge imposed on

1 policyholders under this section is not subject to retaliatory tax
2 provisions. All proceeds of the surcharge shall be deposited in the
3 emergency management, preparedness, and assistance account.

4 NEW SECTION. **Sec. 4.** (1) The Washington military department shall
5 administer the emergency management, preparedness, and assistance
6 account and shall establish rules for its administration in
7 consultation with the emergency management council and the Washington
8 state emergency management association. The department shall:

9 (a) Use not more than twenty percent of the funds appropriated from
10 the emergency management, preparedness, and assistance account for the
11 department's administration of this section and to fund the assessment
12 required by section 5 of this act, and to fund state agency programs
13 and other activities established by the rules required by this section
14 that will strengthen emergency response, mitigation, preparation, and
15 coordination related to the baseline assessment in section 5 of this
16 act;

17 (b) Allocate at least sixty percent of the funds appropriated from
18 the emergency management, preparedness, and assistance account for
19 local and tribal governments' activities established by the rules
20 required by this section that will strengthen emergency response,
21 mitigation, preparation, and coordination;

22 (i) Projects funded under this section shall include, but need not
23 be limited to, projects that will promote neighborhood level public
24 education on disaster preparedness.

25 (ii) Grant funding may also be used as seed money to establish a
26 dedicated, full-time emergency management director in every county that
27 does not have such a director as of the effective date of this section.
28 Grant funding may not be used to hire uniformed personnel to perform
29 routine law enforcement patrol or fire service duties.

30 (iii) The department shall establish criteria, procedures, and a
31 distribution strategy for allocation of funds by rule in consultation
32 with the emergency management council and the Washington state
33 emergency management association;

34 (c) Allocate at least ten percent of the funds appropriated from
35 the emergency management, preparedness, and assistance account for a
36 competitive grant program to improve local and regional programs and
37 coordination. The department shall establish criteria and procedures

1 for competitive allocation of these funds by rule in consultation with
2 the emergency management council and the Washington state emergency
3 management association. At a minimum, the rules shall:

4 (i) Establish preferential funding for projects and exercises
5 addressing needs and recommendations identified by the department in
6 the assessment conducted under section 5 of this act;

7 (ii) Specify match requirements; and

8 (iii) Include requirements that, at a minimum, a local emergency
9 management agency have: A comprehensive emergency management plan or
10 be a member of a joint local organization for emergency management;

11 (d) Allocate at least ten percent of the funds appropriated from
12 the emergency management, preparedness, and assistance account for a
13 response and recovery contingency fund. Moneys from the contingency
14 fund may be released by the Washington state military department to
15 support:

16 (i) State or local matching requirements imposed as a condition of
17 receiving federal disaster relief assistance;

18 (ii) Extraordinary state or local response and recovery costs when
19 no federal disaster declaration has been made.

20 (2) Any funds appropriated under this section but not expended
21 during the designated performance period revert to the response and
22 recovery contingency fund described in subsection (1)(d) of this
23 section.

24 (3) No more than three percent of any award granted under
25 subsection (1)(b) of this section may be used for administrative
26 purposes.

27 (4) Distribution of funds will begin January 1, 2011.

28 NEW SECTION. **Sec. 5.** The emergency management council shall
29 accomplish a baseline assessment of all emergency management programs
30 that receive federal emergency management performance grant funds
31 within six months after the effective date of this section. Beginning
32 biennially thereafter, the emergency management council shall conduct
33 in conjunction with the department, a strategic assessment of the
34 baseline required standards as defined by rules adopted by the
35 department in consultation with the emergency management council and
36 the Washington state emergency management association, and issue a

1 report on, the ability of state, local, and tribal emergency management
2 organizations to effectively provide for all phases of comprehensive
3 emergency management. The assessment shall:

4 (1) Evaluate state, local, and tribal emergency management
5 capabilities and needs;

6 (2) Evaluate the ability of state, local, and tribal emergency
7 management organizations to provide emergency management mitigation,
8 preparedness, response, and recovery;

9 (3) Evaluate the effectiveness of the emergency management
10 structure at the state, local, and tribal levels;

11 (4) Evaluate the coordination between state, local, and tribal
12 governments and private industries or organizations that provide basic
13 human safety and health needs including water, food, shelter, and
14 medical care;

15 (5) Provide findings and make recommendations that increase the
16 ability of state, local, and tribal emergency management organizations
17 to meet current and future risks; and

18 (6) Detail where and for what purpose funds under section 4(1)(b)
19 of this act have been distributed.

20 NEW SECTION. **Sec. 6.** The joint legislative audit and review
21 committee shall study and review the performance of programs
22 implemented under this act. The committee shall examine at least the
23 following factors: The number and type of joint exercises conducted
24 under section 4 of this act; the number of programs receiving grant
25 money and the status of those programs; the coordination of
26 comprehensive emergency management plans between state and local
27 jurisdictions; the number of training programs administered; the number
28 of comprehensive emergency management or safety plans created using
29 funds distributed under section 4 of this act; and the number of
30 emergency preparedness officials created and trained with funds
31 distributed under this act. The committee shall provide a final report
32 on this review by December 2012. Funds from the emergency management,
33 preparedness, and assistance account may be provided to the committee
34 for the purposes of conducting the study.

35 **Sec. 7.** RCW 48.18.170 and 2007 c 153 s 1 are each amended to read
36 as follows:

1 "Premium" as used in this code means all sums charged, received, or
2 deposited as consideration for an insurance contract or the continuance
3 thereof. "Premium" does not include (~~(a regulatory)~~) the annual
4 surcharge imposed (~~(by RCW 48.02.190, except as otherwise provided in~~
5 ~~this)~~) under section 3 of this act. Any assessment, or any
6 "membership," "policy," "survey," "inspection," "service" or similar
7 fee or charge made by the insurer in consideration for an insurance
8 contract is deemed part of the premium.

9 **Sec. 8.** RCW 48.18.180 and 2008 c 217 s 13 are each amended to read
10 as follows:

11 (1) The premium stated in the policy shall be inclusive of all
12 fees, charges, premiums, or other consideration charged for the
13 insurance or for the procurement thereof.

14 (2) No insurer or its officer, employee, appointed insurance
15 producer, or other representative shall charge or receive any fee,
16 compensation, or consideration for insurance which is not included in
17 the premium specified in the policy.

18 (3) Each violation of this section is a gross misdemeanor.

19 (4) This section does not apply to:

20 (a) A fee paid to an insurance producer by an insured as provided
21 in RCW 48.17.270; or

22 (b) (~~(A regulatory)~~) The annual surcharge imposed (~~(by RCW~~
23 ~~48.02.190)~~) under section 3 of this act.

24 NEW SECTION. **Sec. 9.** Sections 2 through 5 of this act are each
25 added to chapter 38.52 RCW.

26 NEW SECTION. **Sec. 10.** Sections 4 through 6 and 8 of this act take
27 effect January 1, 2010.

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