

SENATE BILL REPORT

SB 5010

As of January 21, 2009

Title: An act relating to establishing a statewide CBRNE response program.

Brief Description: Establishing a statewide CBRNE response program.

Sponsors: Senators Kline, Fairley, McCaslin, Kauffman and Pridemore.

Brief History:

Committee Activity: Government Operations & Elections: 1/19/09.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Sharon Swanson (786-7447)

Background: Various state and local governmental entities in Washington are involved in emergency management and preparedness.

The Emergency Management Division. The Emergency Management Division of the Washington Military Department administers emergency management and disaster relief programs. The Director of the Military Department (Director) is appointed by the Governor and is required to develop a comprehensive emergency management plan including an analysis of the natural, technological, or human-caused hazards that could affect the state. Local jurisdictions are directed to establish comprehensive local emergency management plans, and submit their plans to the Director for recommendations. Local jurisdictions may also establish and operate joint local emergency management organizations.

The Emergency Management Council. The Emergency Management Council (Council) is a 17-member Council appointed by the Governor to advise the Governor and the Director on state and local emergency management matters. The Council includes representatives from various state and local agencies as well as emergency medical personnel and private industry. Among other duties, the Council must ensure the Governor receives an annual assessment of statewide emergency preparedness. In the event of a disaster beyond local control, the Governor, through the Director, may assume operational control over all or any part of emergency management functions in the state. In addition to using state and local agencies and employees for emergency response, the Governor and the chief executive or emergency management directors of counties, cities, and towns have authority to press citizens into emergency management service if the Governor proclaims a disaster.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Washington State Emergency Response Commission. The Washington State Emergency Response Commission (SERC) was created in accordance with federal law that establishes requirements for federal, state and local governments, and private industry regarding emergency response planning. Among other purposes, the SERC designates and oversees local emergency planning districts or committees and facilitates preparation and implementation of emergency planning and preparedness.

The Washington State Patrol Fire Protection Bureau. The Washington State Patrol Fire Protection Bureau provides training to first responders on hazardous material incidents and is the Incident Command Agency if an incident occurs along any state route or interstate freeway. The Terrorism Unit offers training and information regarding terrorism response and extremist groups. The training is meant for all first responders, but the Terrorism Unit also provides information to agencies and people on these topics.

Summary of Bill: A chemical, biological, radioactive, nuclear, or explosive (CBRNE) agent is referred to as a CBRNE agent. A CBRNE incident is an incident creating a danger to persons, property, or the environment as a result of spillage, seepage, fire, explosion, or release of a CBRNE agent. The Director of Fire Protection (DFP) in the Washington State Patrol must establish and maintain a statewide CBRNE incident response program. The DFP must:

- divide the state into five CBRNE response regions;
- establish a network of regional teams to respond to CBRNE incidents (one hazmat, one bomb) within their regions and to operate outside their regions in cooperation with other regional teams;
- standardize training, equipment, and procedures for regional teams and others;
- establish procedures for reimbursing regional teams for costs incurred in approved responses; and
- establish procedures for recovering response costs from parties responsible for causing CBRNE incidents.

When dividing the state into CBRNE regions, the DFP must consider:

- the history of any CBRNE or hazardous materials incident locations throughout the state;
- the current geographical distribution of CBRNE or hazardous materials responders; and
- any existing regional divisions in the state.

For each region, the DFP determines the number of response teams, the number of technicians, and the level of training required for the response teams in each region.

Two advisory groups are created to assist the director in implementing and managing the program. The policy advisory group, a six-member group that advises the DFP on budget, staffing, policy, and other management-related issues. The operations advisory group advises the DFP on technical and operations issues, including training, equipment, response, and performance standards.

The statewide CBRNE response account is created in the custody of the State Treasurer.

The primary duty of a regional response team is to stabilize a CBRNE incident. The duties of regional response teams are not meant to be, except as may be incidentally necessary, transport, storage, disposal, or remedial cleanup of CBRNE agents. If a specific person is responsible for a CBRNE incident, the DFP may notify that person by appropriate order. If the responsible person does not pay within 30 days of receiving the order, the Office of the Attorney General will bring an action in superior court to collect the amount. The DFP will actively seek public and private grants to fund the CBRNE program.

The act is null and void if not funded in the state budget.

Appropriation: None.

Fiscal Note: Requested on January 13, 2009.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: There is no regulation of laboratories that deal with anything less than a level 4 violation. We need to have a better structure for dealing with biological incidents as there is currently no regulatory authority over mid-level biological incidents. There is no local structure for local-based teams to operate. It's up to local police departments who may or may not have the appropriate equipment and training. The capacity of the local agencies to deal with CBRNE incidents is hit and miss. Some locals are ready and have the resources, some do not. The bill seeks to create an integrated, seamless interoperable capabilities throughout the state to deal with CBRNE incidents. We believe the balance in the Local Toxics Fund can fund this program. The fund has a balance that is more than enough to fund this program.

CON: Allowing this program to be funded by the Toxics account is a mistake. The First Responder Program is a good program, this is the wrong way to fund it. The account is very unpredictable and this is just not the right way to fund the CBRNE program. This program could divert approximately 10 percent of the fund and the fund just cannot take that kind of loss. The fund was never meant to be used for bomb squads, rather for the clean up of the Puget Sound and other vital areas of the state impacted by toxins.

Persons Testifying: PRO: David Bivins, Washington Fire Chiefs; Mike Brown, Dan Monaghan, Jo Arlow, Washington Association of Sheriffs & Police Chiefs.

CON: Johan Hellman, Washington Public Ports Association; Bruce Wishart, People for Puget Sound; Greg Hanon, Western States Petroleum Association.