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SENATE BILL 5971

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Roach, Chase, Bailey, Rivers, Conway, Schoesler, Shin, Hobbs, Darneille, Tom, and Benton; by request of Military Department and State Auditor

Read first time 01/13/14. Referred to Committee on Governmental Operations.

1 AN ACT Relating to the continuity of government and operations in  
2 the event of an emergency, disaster, or attack; amending RCW 42.14.010,  
3 42.14.020, 42.14.030, 42.14.035, 42.14.040, 42.14.050, 42.14.075,  
4 38.52.010, 38.52.020, and 38.52.030; and providing a contingent  
5 effective date.

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

7 **Sec. 1.** RCW 42.14.010 and 2012 c 117 s 106 are each amended to  
8 read as follows:

9 Unless otherwise clearly required by the context, the following  
10 definitions apply:

11 (1) "Unavailable" means either that a vacancy in the office exists  
12 or that the lawful incumbent of the office is absent or unable to  
13 exercise the powers and discharge the duties of the office following an  
14 emergency, disaster, or attack and a ~~((declaration))~~ proclamation of  
15 existing emergency by the governor or his or her successor.

16 (2) "Attack" means any acts of ~~((warfare))~~ aggression taken ~~((by an~~  
17 ~~enemy of))~~ against the United States causing substantial damage or  
18 injury to persons or property in the United States and in the state of  
19 Washington.

1       (3) "Emergency or disaster" means an event or set of circumstances  
2 which: (a) Demands immediate action to preserve public health, protect  
3 life, protect public property, or to provide relief to any stricken  
4 community overtaken by such occurrences; or (b) reaches such a  
5 dimension or degree of destructiveness as to warrant the governor  
6 proclaiming a state of emergency pursuant to RCW 43.06.010.

7       **Sec. 2.** RCW 42.14.020 and 1963 c 203 s 3 are each amended to read  
8 as follows:

9       (1) In the event that all successors to the office of governor as  
10 provided by Article 3, section 10, as amended by amendment 6 of the  
11 Constitution of the state of Washington are unavailable following an  
12 ~~((enemy))~~ emergency, disaster, or attack, the powers and duties of the  
13 office of governor shall be exercised and discharged by the speaker of  
14 the house of representatives.

15       (2) In the event the speaker of the house is unavailable, the  
16 powers and duties of the office of governor shall be exercised and  
17 discharged by the president pro tem of the senate.

18       (3) In the event that neither the speaker nor the president pro tem  
19 is available, the house of representatives and the senate in joint  
20 assembly shall elect an emergency interim governor.

21       **Sec. 3.** RCW 42.14.030 and 2012 c 117 s 107 are each amended to  
22 read as follows:

23       In the event ~~((enemy))~~ an emergency, disaster, or attack reduces  
24 the number of legislators available for duty, then those legislators  
25 available for duty shall constitute the legislature and shall have full  
26 power to act in separate or joint assembly by majority vote of those  
27 present(~~(. In the event of an attack)~~), and the following provisions  
28 apply: (1) Quorum requirements for the legislature shall be suspended,  
29 and (2) where the affirmative vote of a specified proportion of members  
30 for approval of a bill, resolution, or other action would otherwise be  
31 required, the same proportion of those voting thereon shall be  
32 sufficient. In the event of an attack, the governor shall call the  
33 legislature into session as soon as practicable(~~(, and in any case~~  
34 ~~within thirty days following the inception of the attack. If the~~  
35 ~~governor fails to issue such call, the legislature shall, on the~~  
36 ~~thirtieth day from the date of inception of the attack, automatically~~

1 ~~convene at the place where the governor then has his or her office)).~~  
2 Each legislator shall proceed to the place of session as expeditiously  
3 as practicable. ~~((At such session or at any session in operation at~~  
4 ~~the inception of the attack, and at any subsequent sessions,))~~  
5 Limitations on the length of session and on the subjects which may be  
6 acted upon shall be suspended.

7 **Sec. 4.** RCW 42.14.035 and 1969 ex.s. c 106 s 1 are each amended to  
8 read as follows:

9 Whenever, in the judgment of the governor, it becomes  
10 impracticable, due to an emergency ~~((resulting from enemy)),~~ disaster,  
11 or attack ~~((or natural disaster)),~~ to convene the legislature in the  
12 usual seat of government at Olympia, the governor may call the  
13 legislature into emergency session in any location within this or an  
14 adjoining state. The first order of business of any legislature so  
15 convened shall be the establishment of temporary emergency seats of  
16 government for the state. After any emergency relocation, the affairs  
17 of state government shall be lawfully conducted at such emergency  
18 temporary location or locations for the duration of the emergency.

19 **Sec. 5.** RCW 42.14.040 and 1963 c 203 s 5 are each amended to read  
20 as follows:

21 In the event ~~((enemy))~~ an emergency, disaster, or attack reduces  
22 the number of county commissioners of any county, then those  
23 commissioners available for duty shall have full authority to act in  
24 all matters as a board of county commissioners. In the event no county  
25 commissioner is available for duty, then those elected county  
26 officials, except for the members of the county board of education, as  
27 are available for duty shall jointly act as the board of county  
28 commissioners and shall possess by majority vote the full authority of  
29 the board of county commissioners.

30 **Sec. 6.** RCW 42.14.050 and 1981 c 213 s 8 are each amended to read  
31 as follows:

32 In the event that the executive head of any city or town is  
33 unavailable by reason of ~~((enemy))~~ an emergency, disaster, or attack to  
34 exercise the powers and discharge the duties of the office, then those  
35 members of the city or town council or commission available for duty

1 shall by majority vote select one of their number to act as the  
2 executive head of such city or town. In the event (~~(enemy)~~) an  
3 emergency, disaster, or attack reduces the number of city or town  
4 councilmembers or commission members, then those members available for  
5 duty shall have full power to act by majority vote of those present.

6 **Sec. 7.** RCW 42.14.075 and 1969 ex.s. c 106 s 2 are each amended to  
7 read as follows:

8 Whenever, due to (~~(a natural)~~) an emergency, disaster, (~~(an)~~) or  
9 attack or when such an (~~(attack)~~) event is imminent, it becomes  
10 imprudent, inexpedient or impossible to conduct the affairs of a  
11 political subdivision at the regular or usual place or places, the  
12 governing body of the political subdivision may meet at any place  
13 within or without the territorial limits of the political subdivision  
14 on the call of the presiding official or any two members of the  
15 governing body. After any emergency relocation, the affairs of  
16 political subdivisions shall be lawfully conducted at such emergency  
17 temporary location or locations for the duration of the emergency.

18 **Sec. 8.** RCW 38.52.010 and 2007 c 292 s 1 are each amended to read  
19 as follows:

20 As used in this chapter:

21 (1) "Emergency management" or "comprehensive emergency management"  
22 means the preparation for and the carrying out of all emergency  
23 functions, other than functions for which the military forces are  
24 primarily responsible, to mitigate, prepare for, respond to, and  
25 recover from emergencies and disasters, and to aid victims suffering  
26 from injury or damage, resulting from disasters caused by all hazards,  
27 whether natural, technological, or human caused, and to provide support  
28 for search and rescue operations for persons and property in distress.  
29 However, "emergency management" or "comprehensive emergency management"  
30 does not mean preparation for emergency evacuation or relocation of  
31 residents in anticipation of nuclear attack.

32 (2) "Local organization for emergency services or management" means  
33 an organization created in accordance with the provisions of this  
34 chapter by state or local authority to perform local emergency  
35 management functions.

36 (3) "Political subdivision" means any county, city or town.

1 (4) "Emergency worker" means any person who is registered with a  
2 local emergency management organization or the department and holds an  
3 identification card issued by the local emergency management director  
4 or the department for the purpose of engaging in authorized emergency  
5 management activities or is an employee of the state of Washington or  
6 any political subdivision thereof who is called upon to perform  
7 emergency management activities.

8 (5) "Injury" as used in this chapter shall mean and include  
9 accidental injuries and/or occupational diseases arising out of  
10 emergency management activities.

11 (6)(a) "Emergency or disaster" as used in all sections of this  
12 chapter except RCW 38.52.430 shall mean an event or set of  
13 circumstances which: (i) Demands immediate action to preserve public  
14 health, protect life, protect public property, or to provide relief to  
15 any stricken community overtaken by such occurrences, or (ii) reaches  
16 such a dimension or degree of destructiveness as to warrant the  
17 governor declaring a state of emergency pursuant to RCW 43.06.010.

18 (b) "Emergency" as used in RCW 38.52.430 means an incident that  
19 requires a normal police, coroner, fire, rescue, emergency medical  
20 services, or utility response as a result of a violation of one of the  
21 statutes enumerated in RCW 38.52.430.

22 (7) "Search and rescue" means the acts of searching for, rescuing,  
23 or recovering by means of ground, marine, or air activity any person  
24 who becomes lost, injured, or is killed while outdoors or as a result  
25 of a natural, technological, or human caused disaster, including  
26 instances involving searches for downed aircraft when ground personnel  
27 are used. Nothing in this section shall affect appropriate activity by  
28 the department of transportation under chapter 47.68 RCW.

29 (8) "Executive head" and "executive heads" means the county  
30 executive in those charter counties with an elective office of county  
31 executive, however designated, and, in the case of other counties, the  
32 county legislative authority. In the case of cities and towns, it  
33 means the mayor in those cities and towns with mayor-council or  
34 commission forms of government, where the mayor is directly elected,  
35 and it means the city manager in those cities and towns with council  
36 manager forms of government. Cities and towns may also designate an  
37 executive head for the purposes of this chapter by ordinance.

38 (9) "Director" means the adjutant general.

1 (10) "Local director" means the director of a local organization of  
2 emergency management or emergency services.

3 (11) "Department" means the state military department.

4 (12) "Emergency response" as used in RCW 38.52.430 means a public  
5 agency's use of emergency services during an emergency or disaster as  
6 defined in subsection (6)(b) of this section.

7 (13) "Expense of an emergency response" as used in RCW 38.52.430  
8 means reasonable costs incurred by a public agency in reasonably making  
9 an appropriate emergency response to the incident, but shall only  
10 include those costs directly arising from the response to the  
11 particular incident. Reasonable costs shall include the costs of  
12 providing police, coroner, firefighting, rescue, emergency medical  
13 services, or utility response at the scene of the incident, as well as  
14 the salaries of the personnel responding to the incident.

15 (14) "Public agency" means the state, and a city, county, municipal  
16 corporation, district, town, or public authority located, in whole or  
17 in part, within this state which provides or may provide firefighting,  
18 police, ambulance, medical, or other emergency services.

19 (15) "Incident command system" means: (a) An all-hazards, on-scene  
20 functional management system that establishes common standards in  
21 organization, terminology, and procedures; provides a means (unified  
22 command) for the establishment of a common set of incident objectives  
23 and strategies during multiagency/multijurisdiction operations while  
24 maintaining individual agency/jurisdiction authority, responsibility,  
25 and accountability; and is a component of the national interagency  
26 incident management system; or (b) an equivalent and compatible all-  
27 hazards, on-scene functional management system.

28 (16) "Radio communications service company" has the meaning  
29 ascribed to it in RCW 82.14B.020.

30 (17) "Continuity of operations planning" means the internal effort  
31 of an organization to assure that the capability exists to continue  
32 essential functions and services in response to a comprehensive array  
33 of potential emergencies or disasters.

34 **Sec. 9.** RCW 38.52.020 and 1986 c 266 s 24 are each amended to read  
35 as follows:

36 (1) Because of the existing and increasing possibility of the  
37 occurrence of disasters of unprecedented size and destructiveness as

1 defined in RCW 38.52.010(6), and in order to insure that preparations  
2 of this state will be adequate to deal with such disasters, to insure  
3 the administration of state and federal programs providing disaster  
4 relief to individuals, and further to insure adequate support for  
5 search and rescue operations, and generally to protect the public  
6 peace, health, and safety, and to preserve the lives and property of  
7 the people of the state, it is hereby found and declared to be  
8 necessary:

9 (a) To provide for emergency management by the state, and to  
10 authorize the creation of local organizations for emergency management  
11 in the political subdivisions of the state;

12 (b) To confer upon the governor and upon the executive heads of the  
13 political subdivisions of the state the emergency powers provided  
14 herein;

15 (c) To provide for the rendering of mutual aid among the political  
16 subdivisions of the state and with other states and to cooperate with  
17 the federal government with respect to the carrying out of emergency  
18 management functions;

19 (d) To provide a means of compensating emergency management workers  
20 who may suffer any injury, as herein defined, or death; who suffer  
21 economic harm including personal property damage or loss; or who incur  
22 expenses for transportation, telephone or other methods of  
23 communication, and the use of personal supplies as a result of  
24 participation in emergency management activities; (~~and~~)

25 (e) To provide programs, with intergovernmental cooperation, to  
26 educate and train the public to be prepared for emergencies; and

27 (f) To provide for the development and exercise of continuity of  
28 operations plans by the state.

29 (2) It is further declared to be the purpose of this chapter and  
30 the policy of the state that all emergency management functions of this  
31 state and its political subdivisions be coordinated to the maximum  
32 extent with the comparable functions of the federal government  
33 including its various departments and agencies of other states and  
34 localities, and of private agencies of every type, to the end that the  
35 most effective preparation and use may be made of the nation's  
36 manpower, resources, and facilities for dealing with any disaster that  
37 may occur.

1       **Sec. 10.** RCW 38.52.030 and 1997 c 49 s 2 are each amended to read  
2 as follows:

3       (1) The director may employ such personnel and may make such  
4 expenditures within the appropriation therefor, or from other funds  
5 made available for purposes of emergency management, as may be  
6 necessary to carry out the purposes of this chapter.

7       (2) The director, subject to the direction and control of the  
8 governor, shall be responsible to the governor for carrying out the  
9 program for emergency management of this state. The director shall  
10 coordinate the activities of all organizations for emergency management  
11 within the state, and shall maintain liaison with and cooperate with  
12 emergency management agencies and organizations of other states and of  
13 the federal government, and shall have such additional authority,  
14 duties, and responsibilities authorized by this chapter, as may be  
15 prescribed by the governor.

16       (3) The director shall develop and maintain a comprehensive, all-  
17 hazard emergency plan for the state which shall include an analysis of  
18 the natural, technological, or human caused hazards which could affect  
19 the state of Washington, and shall include the procedures to be used  
20 during emergencies for coordinating local resources, as necessary, and  
21 the resources of all state agencies, departments, commissions, and  
22 boards. The comprehensive emergency management plan shall direct the  
23 department in times of state emergency to administer and manage the  
24 state's emergency operations center. This will include representation  
25 from all appropriate state agencies and be available as a single point  
26 of contact for the authorizing of state resources or actions, including  
27 emergency permits. The comprehensive emergency management plan must  
28 specify the use of the incident command system for  
29 multiagency/multijurisdiction operations. The comprehensive, all-  
30 hazard emergency plan authorized under this subsection may not include  
31 preparation for emergency evacuation or relocation of residents in  
32 anticipation of nuclear attack. This plan shall be known as the  
33 comprehensive emergency management plan.

34       (4) In accordance with the comprehensive emergency management plans  
35 and the programs for the emergency management of this state, the  
36 director shall procure supplies and equipment, institute training  
37 programs and public information programs, and shall take all other  
38 preparatory steps, including the partial or full mobilization of



1 emergency management organizations in advance of actual disaster, to  
2 insure the furnishing of adequately trained and equipped forces of  
3 emergency management personnel in time of need.

4 (5) The director shall make such studies and surveys of the  
5 industries, resources, and facilities in this state as may be necessary  
6 to ascertain the capabilities of the state for emergency management,  
7 and shall plan for the most efficient emergency use thereof.

8 (6) The emergency management council shall advise the director on  
9 all aspects of the communications and warning systems and facilities  
10 operated or controlled under the provisions of this chapter.

11 (7) The director, through the state enhanced 911 coordinator, shall  
12 coordinate and facilitate implementation and operation of a statewide  
13 enhanced 911 emergency communications network.

14 (8) The director shall appoint a state coordinator of search and  
15 rescue operations to coordinate those state resources, services and  
16 facilities (other than those for which the state director of  
17 aeronautics is directly responsible) requested by political  
18 subdivisions in support of search and rescue operations, and on request  
19 to maintain liaison with and coordinate the resources, services, and  
20 facilities of political subdivisions when more than one political  
21 subdivision is engaged in joint search and rescue operations.

22 (9) The director, subject to the direction and control of the  
23 governor, shall prepare and administer a state program for emergency  
24 assistance to individuals within the state who are victims of a  
25 natural, technological, or human caused disaster, as defined by RCW  
26 38.52.010(6). Such program may be integrated into and coordinated with  
27 disaster assistance plans and programs of the federal government which  
28 provide to the state, or through the state to any political subdivision  
29 thereof, services, equipment, supplies, materials, or funds by way of  
30 gift, grant, or loan for purposes of assistance to individuals affected  
31 by a disaster. Further, such program may include, but shall not be  
32 limited to, grants, loans, or gifts of services, equipment, supplies,  
33 materials, or funds of the state, or any political subdivision thereof,  
34 to individuals who, as a result of a disaster, are in need of  
35 assistance and who meet standards of eligibility for disaster  
36 assistance established by the department of social and health services:  
37 PROVIDED, HOWEVER, That nothing herein shall be construed in any manner

1 inconsistent with the provisions of Article VIII, section 5 or section  
2 7 of the Washington state Constitution.

3 (10) The director shall appoint a state coordinator for radioactive  
4 and hazardous waste emergency response programs. The coordinator shall  
5 consult with the state radiation control officer in matters relating to  
6 radioactive materials. The duties of the state coordinator for  
7 radioactive and hazardous waste emergency response programs shall  
8 include:

9 (a) Assessing the current needs and capabilities of state and local  
10 radioactive and hazardous waste emergency response teams on an ongoing  
11 basis;

12 (b) Coordinating training programs for state and local officials  
13 for the purpose of updating skills relating to emergency mitigation,  
14 preparedness, response, and recovery;

15 (c) Utilizing appropriate training programs such as those offered  
16 by the federal emergency management agency, the department of  
17 transportation and the environmental protection agency; and

18 (d) Undertaking other duties in this area that are deemed  
19 appropriate by the director.

20 (11) The director is responsible to the governor for developing and  
21 implementing a program for interagency coordination of continuity of  
22 operations planning by state agencies, boards, and commissions. Each  
23 state agency, board, and commission is responsible for developing an  
24 organizational continuity of operations plan that is updated and  
25 exercised annually in compliance with the program for interagency  
26 coordination of continuity of operations planning.

27 NEW SECTION. Sec. 11. Sections 1 through 7 of this act take  
28 effect if the proposed amendment to Article II, section 42 of the state  
29 Constitution providing continuity of state and local government during  
30 emergencies and disasters is validly submitted to and is approved and  
31 ratified by the voters at the next general election. If the proposed  
32 amendment is not approved and ratified, sections 1 through 7 of this  
33 act are void in their entirety.

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