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**SUBSTITUTE SENATE BILL 5247**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Frockt, Zeiger, Hobbs, Bailey, Rolfes, Hunt, Conway, Das, Honeyford, Keiser, and Mullet; by request of Military Department)

AN ACT Relating to addressing catastrophic incidents that are natural or human-caused emergencies; amending RCW 38.52.010 and 38.52.030; creating new sections; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) The legislature finds that the widespread impact of damage, casualties, and displacement of people resulting from a catastrophic incident makes it one of the most important topics in emergency management today. A catastrophic incident can result in tens of thousands of casualties and displaced people, and significantly disrupt the functioning of our infrastructure and economy; will almost immediately exceed the resources normally available to state, tribal, local, and private sector authorities for response; and will significantly disrupt governmental operations, schools, and the availability of emergency services. The characteristics of the precipitating event will severely aggravate the response strategy and quickly exhaust the capabilities and resources available in the impacted area, requiring significant resources from outside the area.

(2) The legislature further finds that joint local, state, and federal agencies must plan and prepare to provide extraordinary levels of lifesaving, life-sustaining, and other resources necessary to respond to the no notice or short notice hazard represented by a seismic catastrophic incident. Schools with their large number of vulnerable children, will need focused additional assistance to plan for seismic risks.

**Sec.**  RCW 38.52.010 and 2017 c 312 s 3 are each amended to read as follows:

As used in this chapter:

(1)(a) "Catastrophic incident" means any natural or human-caused incident, including terrorism and enemy attack, that results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, or government functions.

(b) "Catastrophic incident" does not include an event resulting from individuals exercising their rights, under the first amendment, of freedom of speech, and of the people to peaceably assemble.

(2) "Communication plan," as used in RCW 38.52.070, means a section in a local comprehensive emergency management plan that addresses emergency notification of life safety information.

((~~(2)~~)) (3) "Continuity of operations planning" means the internal effort of an organization to assure that the capability exists to continue essential functions and services in response to a comprehensive array of potential emergencies or disasters.

((~~(3)~~)) (4) "Department" means the state military department.

((~~(4)~~)) (5) "Director" means the adjutant general.

((~~(5)~~)) (6) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human-caused, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

((~~(6)~~)) (7)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

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

((~~(7)~~)) (8) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection ((~~(6)~~)) (7)(b) of this section.

((~~(8)~~)) (9) "Emergency services building" means any building, including buildings designed and constructed, for public agencies used, or designed to be used, or any building a portion of which is used, or designed to be used, as a fire station, police station, emergency operations center, Washington state patrol office, sheriff's office, emergency communication dispatch center, or emergency shelter.

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

((~~(9)~~)) (11) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor in those cities and towns with mayor-council or commission forms of government, where the mayor is directly elected, and it means the city manager in those cities and towns with council manager forms of government. Cities and towns may also designate an executive head for the purposes of this chapter by ordinance.

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

((~~(11)~~)) (13) "Functional recovery standard" means a set of enforceable building code provisions and regulations that provide specific design and construction requirements intended to result in a building for which postearthquake structural and nonstructural capacity are maintained or can be restored to support the basic intended functions of the building's preearthquake use and occupancy within a maximum acceptable time, where the maximum acceptable time might differ for various uses or occupancies.

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

((~~(12)~~)) (15) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

((~~(13)~~)) (16) "Life safety information" means information provided to people during a response to a life-threatening emergency or disaster informing them of actions they can take to preserve their safety. Such information may include, but is not limited to, information regarding evacuation, sheltering, sheltering-in-place, facility lockdown, and where to obtain food and water.

((~~(14)~~)) (17) "Local director" means the director of a local organization of emergency management or emergency services.

((~~(15)~~)) (18) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

((~~(16)~~)) (19) "Political subdivision" means any county, city or town.

((~~(17)~~)) (20) "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.

((~~(18)~~)) (21) "Radio communications service company" has the meaning ascribed to it in RCW 82.14B.020.

((~~(19)~~)) (22) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural, technological, or human-caused disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

**Sec.**  RCW 38.52.030 and 2018 c 26 s 2 are each amended to read as follows:

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

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

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

(4) Subject to the availability of amounts appropriated for this specific purpose, the director may develop guidance, in consultation with the office of the superintendent of public instruction, that may be used by local school districts in developing, maintaining, training, and exercising catastrophic incident plans.

(5) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

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

((~~(6)~~)) (7) The emergency management council shall advise the director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

((~~(7)~~)) (8) The director, through the state enhanced 911 coordinator, shall coordinate and facilitate implementation and operation of a statewide enhanced 911 emergency communications network.

((~~(8)~~)) (9) The director shall appoint a state coordinator of search and rescue operations to coordinate those state resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and on request to maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

((~~(9)~~)) (10) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural, technological, or human-caused disaster, as defined by RCW 38.52.010((~~(6)~~)) (7). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: PROVIDED, HOWEVER, That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution.

((~~(10)~~)) (11) The director shall appoint a state coordinator for radioactive and hazardous waste emergency response programs. The coordinator shall consult with the state radiation control officer in matters relating to radioactive materials. The duties of the state coordinator for radioactive and hazardous waste emergency response programs shall include:

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

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

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

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

((~~(11)~~)) (12) The director is responsible to the governor to lead the development and management of a program for interagency coordination and prioritization of continuity of operations planning by state agencies. Each state agency is responsible for developing an organizational continuity of operations plan that is updated and exercised annually in compliance with the program for interagency coordination of continuity of operations planning.

((~~(12)~~)) (13) The director shall maintain a copy of the continuity of operations plan for election operations for each county that has a plan available.

NEW SECTION. **Sec.**  (1) The functional recovery task force is established to determine criteria and implementation measures necessary for the adoption of a functional recovery standard for all emergency services buildings and state-owned buildings.

(2) Implementation measures must include:

(a) Integration of infrastructure necessary to support functional recovery including, but not limited to, water availability, electrical power, transportation, communications, fuel, and other services;

(b) Practical means for implementing a functional recovery standard, including:

(i) Amendments to the state building code;

(ii) Estimated costs for compliance;

(iii) Practical financial incentives and programs, including public-private partnerships to cover costs; and

(iv) Education and outreach.

(3) The work of the functional recovery task force must be prioritized as follows:

(a) Determination of criteria and implementation measures for the adoption of a functional recovery standard for all new emergency services buildings and state-owned buildings;

(b) Identification of practical means for the seismic retrofitting of all existing emergency services buildings and state-owned buildings; and

(c) Defining and establishing criteria and implementation measures for an immediate occupancy standard as considered in the national institute of standards and technology special publication 1224: Research Needs to Support Immediate Occupancy Building Performance Objective Following Natural Hazard Events.

(4) In order to determine criteria for a functional recovery standard, the task force may examine:

(a) The national institute of standards and technology report referenced in subsection (3)(c) of this section;

(b) California Administrative Code, part 1, chapter 4, administrative regulations for the division of the state architect, structural safety; and

(c) Any other relevant reports, industry and government standards, best practices, or academic research.

(5) The functional recovery task force must consist of:

(a) Two members from the house of representatives, with one member appointed from each of the two major caucuses of the house of representatives by the speaker of the house of representatives;

(b) Two members from the senate, with one member appointed from each of the two major caucuses of the senate by the president of the senate; and

(c) Appropriate representatives from public and private sector entities including, but not limited to:

(i) The state building code council;

(ii) The state military department;

(iii) The office of the insurance commissioner;

(iv) The department of enterprise services;

(v) The department of natural resources;

(vi) The department of ecology;

(vii) Local governments;

(viii) The department of commerce;

(ix) The state board for architects;

(x) Building officials;

(xi) The state fire marshal;

(xii) Structural and civil engineers;

(xiii) The insurance industry;

(xiv) The construction industry;

(xv) The Washington geological survey;

(xvi) The international code council; and

(xvii) First responders.

(6) Staff support for the functional recovery task force must be provided by the senate committee services and the house of representatives office of program research.

(7) Legislative members of the functional recovery task force are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(8) The expenses of the functional recovery task force must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(9) The functional recovery task force must provide periodic progress reports after the completion of each priority listed in this section to the governor and the appropriate committees of the legislature. The progress reports must include findings, successes, challenges, and any recommendations to the legislature to assist the task force in its work.

(10) By December 1, 2021, and in compliance with RCW 43.01.036, the functional recovery task force must report its final set of findings and recommendations to the governor and the appropriate committees of the legislature.

(11) This section expires December 31, 2021.

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