

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5012

66th Legislature
2019 Regular Session

Passed by the Senate April 22, 2019
Yeas 48 Nays 1

President of the Senate

Passed by the House April 17, 2019
Yeas 90 Nays 8

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5012** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5012

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators Takko, Zeiger, Rolfes, Hobbs, O'Ban, Keiser, Warnick, Hunt, Pedersen, Bailey, Conway, McCoy, Wellman, Palumbo, Kuderer, and Carlyle)

READ FIRST TIME 02/20/19.

1 AN ACT Relating to governmental continuity during emergency
2 periods; amending RCW 38.52.010, 38.52.030, 42.14.010, 42.14.020,
3 42.14.030, 42.14.035, 42.14.040, 42.14.050, and 42.14.075; creating
4 new sections; and providing a contingent effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the ability of
7 government to fulfill its constitutional and statutory
8 responsibilities by continuing to conduct essential functions and
9 services during the periods of significant disruption that follow
10 catastrophic incidents requires both continuity of operations
11 planning by individual agencies and continuity of government planning
12 by state and local government. It is the intent of the legislature
13 that all levels and branches of government, both state and local,
14 take appropriate action to cooperatively conduct appropriate planning
15 and preparation for continuity of operations and government to assist
16 in fulfilling these responsibilities.

17 **Sec. 2.** RCW 38.52.010 and 2017 c 312 s 3 are each amended to
18 read as follows:

19 As used in this chapter:

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

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

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

12 (~~(2)~~) (3) "Continuity of government planning" means the
13 internal effort of all levels and branches of government to provide
14 that the capability exists to continue essential functions and
15 services following a catastrophic incident. These efforts include,
16 but are not limited to, providing for: (a) Orderly succession and
17 appropriate changes of leadership whether appointed or elected; (b)
18 filling vacancies; (c) interoperability communications; and (d)
19 processes and procedures to reconvene government following periods of
20 disruption that may be caused by a catastrophic incident. Continuity
21 of government planning is intended to preserve the constitutional and
22 statutory authority of elected officials at the state and local level
23 and provide for the continued performance of essential functions and
24 services by each level and branch of government.

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

29 (~~(3)~~) (5) "Department" means the state military department.

30 (~~(4)~~) (6) "Director" means the adjutant general.

31 (~~(5)~~) (7) "Emergency management" or "comprehensive emergency
32 management" means the preparation for and the carrying out of all
33 emergency functions, other than functions for which the military
34 forces are primarily responsible, to mitigate, prepare for, respond
35 to, and recover from emergencies and disasters, and to aid victims
36 suffering from injury or damage, resulting from disasters caused by
37 all hazards, whether natural, technological, or human caused, and to
38 provide support for search and rescue operations for persons and
39 property in distress. However, "emergency management" or
40 "comprehensive emergency management" does not mean preparation for

1 emergency evacuation or relocation of residents in anticipation of
2 nuclear attack.

3 ~~((+6))~~ (8) (a) "Emergency or disaster" as used in all sections of
4 this chapter except RCW 38.52.430 ~~((shall))~~ means an event or set of
5 circumstances which: (i) Demands immediate action to preserve public
6 health, protect life, protect public property, or to provide relief
7 to any stricken community overtaken by such occurrences; or (ii)
8 reaches such a dimension or degree of destructiveness as to warrant
9 the governor ~~((declaring))~~ proclaiming a state of emergency pursuant
10 to RCW 43.06.010.

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

15 ~~((+7))~~ (9) "Emergency response" as used in RCW 38.52.430 means a
16 public agency's use of emergency services during an emergency or
17 disaster as defined in subsection ~~((+6))~~ (8) (b) of this section.

18 ~~((+8))~~ (10) "Emergency worker" means any person who is
19 registered with a local emergency management organization or the
20 department and holds an identification card issued by the local
21 emergency management director or the department for the purpose of
22 engaging in authorized emergency management activities or is an
23 employee of the state of Washington or any political subdivision
24 thereof who is called upon to perform emergency management
25 activities.

26 ~~((+9))~~ (11) "Executive head" and "executive heads" means the
27 county executive in those charter counties with an elective office of
28 county executive, however designated, and, in the case of other
29 counties, the county legislative authority. In the case of cities and
30 towns, it means the mayor in those cities and towns with mayor-
31 council or commission forms of government, where the mayor is
32 directly elected, and it means the city manager in those cities and
33 towns with council manager forms of government. Cities and towns may
34 also designate an executive head for the purposes of this chapter by
35 ordinance.

36 ~~((+10))~~ (12) "Expense of an emergency response" as used in RCW
37 38.52.430 means reasonable costs incurred by a public agency in
38 reasonably making an appropriate emergency response to the incident,
39 but shall only include those costs directly arising from the response
40 to the particular incident. Reasonable costs shall include the costs

1 of providing police, coroner, firefighting, rescue, emergency medical
2 services, or utility response at the scene of the incident, as well
3 as the salaries of the personnel responding to the incident.

4 ~~((11))~~ (13) "Incident command system" means: (a) An all-
5 hazards, on-scene functional management system that establishes
6 common standards in organization, terminology, and procedures;
7 provides a means (unified command) for the establishment of a common
8 set of incident objectives and strategies during multiagency/
9 multijurisdiction operations while maintaining individual agency/
10 jurisdiction authority, responsibility, and accountability; and is a
11 component of the national interagency incident management system; or
12 (b) an equivalent and compatible all-hazards, on-scene functional
13 management system.

14 ~~((12))~~ (14) "Injury" as used in this chapter shall mean and
15 include accidental injuries and/or occupational diseases arising out
16 of emergency management activities.

17 ~~((13))~~ (15) "Life safety information" means information
18 provided to people during a response to a life-threatening emergency
19 or disaster informing them of actions they can take to preserve their
20 safety. Such information may include, but is not limited to,
21 information regarding evacuation, sheltering, sheltering-in-place,
22 facility lockdown, and where to obtain food and water.

23 ~~((14))~~ (16) "Local director" means the director of a local
24 organization of emergency management or emergency services.

25 ~~((15))~~ (17) "Local organization for emergency services or
26 management" means an organization created in accordance with the
27 provisions of this chapter by state or local authority to perform
28 local emergency management functions.

29 ~~((16))~~ (18) "Political subdivision" means any county, city or
30 town.

31 ~~((17))~~ (19) "Public agency" means the state, and a city,
32 county, municipal corporation, district, town, or public authority
33 located, in whole or in part, within this state which provides or may
34 provide firefighting, police, ambulance, medical, or other emergency
35 services.

36 ~~((18))~~ (20) "Radio communications service company" has the
37 meaning ascribed to it in RCW 82.14B.020.

38 ~~((19))~~ (21) "Search and rescue" means the acts of searching
39 for, rescuing, or recovering by means of ground, marine, or air
40 activity any person who becomes lost, injured, or is killed while

1 outdoors or as a result of a natural, technological, or human caused
2 disaster, including instances involving searches for downed aircraft
3 when ground personnel are used. Nothing in this section shall affect
4 appropriate activity by the department of transportation under
5 chapter 47.68 RCW.

6 **Sec. 3.** RCW 38.52.030 and 2018 c 26 s 2 are each amended to read
7 as follows:

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

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

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

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

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

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

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

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

29 (9) The director, subject to the direction and control of the
30 governor, shall prepare and administer a state program for emergency
31 assistance to individuals within the state who are victims of a
32 natural, technological, or human caused disaster, as defined by RCW
33 38.52.010(6). Such program may be integrated into and coordinated
34 with disaster assistance plans and programs of the federal government
35 which provide to the state, or through the state to any political
36 subdivision thereof, services, equipment, supplies, materials, or
37 funds by way of gift, grant, or loan for purposes of assistance to
38 individuals affected by a disaster. Further, such program may
39 include, but shall not be limited to, grants, loans, or gifts of
40 services, equipment, supplies, materials, or funds of the state, or

1 any political subdivision thereof, to individuals who, as a result of
2 a disaster, are in need of assistance and who meet standards of
3 eligibility for disaster assistance established by the department of
4 social and health services: PROVIDED, HOWEVER, That nothing herein
5 shall be construed in any manner inconsistent with the provisions of
6 Article VIII, section 5 or section 7 of the Washington state
7 Constitution.

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

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

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

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

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

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

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

35 (13) Subject to the availability of amounts appropriated for this
36 specific purpose, the director is responsible to the governor to lead
37 the development and management of a program to provide information
38 and education to state and local government officials regarding
39 catastrophic incidents and continuity of government planning to
40 assist with statewide development of continuity of government plans

1 by all levels and branches of state and local government that address
2 how essential government functions and services will continue to be
3 provided following a catastrophic incident.

4 **Sec. 4.** RCW 42.14.010 and 2012 c 117 s 106 are each amended to
5 read as follows:

6 Unless otherwise clearly required by the context, the following
7 definitions apply:

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

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

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

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

26 (4) "Emergency or disaster" means an event or set of
27 circumstances which: (a) Demands immediate action to preserve public
28 health, protect life, protect public property, or to provide relief
29 to any stricken community overtaken by such occurrences; or (b)
30 reaches such a dimension or degree of destructiveness as to warrant
31 the governor proclaiming a state of emergency pursuant to RCW
32 43.06.010.

33 **Sec. 5.** RCW 42.14.020 and 1963 c 203 s 3 are each amended to
34 read as follows:

35 (1) In the event that all successors to the office of governor as
36 provided by Article 3, section 10, as amended by amendment 6 of the
37 Constitution of the state of Washington are unavailable following
38 ~~((an enemy attack))~~ a catastrophic incident, the powers and duties of

1 the office of governor shall be exercised and discharged by the
2 speaker of the house of representatives.

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

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

9 **Sec. 6.** RCW 42.14.030 and 2012 c 117 s 107 are each amended to
10 read as follows:

11 In the event (~~enemy attack~~) that a catastrophic incident
12 reduces the number of legislators available for duty, then those
13 legislators available for duty shall constitute the legislature and
14 shall have full power to act in separate or joint assembly by
15 majority vote of those present. In the event of (~~an attack~~) a
16 catastrophic incident, (1) quorum requirements for the legislature
17 shall be suspended, and (2) where the affirmative vote of a specified
18 proportion of members for approval of a bill, resolution, or other
19 action would otherwise be required, the same proportion of those
20 voting thereon shall be sufficient. In the event of (~~an attack~~) a
21 catastrophic incident, the governor shall call the legislature into
22 session as soon as practicable, and in any case within thirty days
23 following the inception of the (~~attack~~) catastrophic incident. If
24 the governor fails to issue such call, the legislature shall, on the
25 thirtieth day from the date of inception of the (~~attack~~)
26 catastrophic incident, automatically convene at the place where the
27 governor then has his or her office. Each legislator shall proceed to
28 the place of session as expeditiously as practicable. At such session
29 or at any session in operation at the inception of the (~~attack~~)
30 catastrophic incident, and at any subsequent sessions, limitations on
31 the length of session and on the subjects which may be acted upon
32 shall be suspended.

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

35 Whenever, in the judgment of the governor, it becomes
36 impracticable, due to an emergency resulting from (~~enemy attack or~~
37 ~~natural disaster~~) a catastrophic incident, to convene the
38 legislature in the usual seat of government at Olympia, the governor

1 may call the legislature into emergency session in any location
2 within this or an adjoining state. The first order of business of any
3 legislature so convened shall be the establishment of temporary
4 emergency seats of government for the state. After any emergency
5 relocation, the affairs of state government shall be lawfully
6 conducted at such emergency temporary location or locations for the
7 duration of the emergency.

8 **Sec. 8.** RCW 42.14.040 and 1963 c 203 s 5 are each amended to
9 read as follows:

10 In the event (~~enemy-attack~~) that a catastrophic incident
11 reduces the number of county commissioners of any county, then those
12 commissioners available for duty shall have full authority to act in
13 all matters as a board of county commissioners. In the event no
14 county commissioner is available for duty, then those elected county
15 officials, except for the members of the county board of education,
16 as are available for duty shall jointly act as the board of county
17 commissioners and shall possess by majority vote the full authority
18 of the board of county commissioners.

19 **Sec. 9.** RCW 42.14.050 and 1981 c 213 s 8 are each amended to
20 read as follows:

21 In the event that the executive head of any city or town is
22 unavailable by reason of (~~enemy-attack~~) a catastrophic incident to
23 exercise the powers and discharge the duties of the office, then
24 those members of the city or town council or commission available for
25 duty shall by majority vote select one of their number to act as the
26 executive head of such city or town. In the event (~~enemy-attack~~)
27 that a catastrophic incident reduces the number of city or town
28 councilmembers or commission members, then those members available
29 for duty shall have full power to act by majority vote of those
30 present.

31 **Sec. 10.** RCW 42.14.075 and 1969 ex.s. c 106 s 2 are each amended
32 to read as follows:

33 Whenever, due to a (~~natural-disaster, an-attack~~) catastrophic
34 incident, or when such an (~~attack~~) event is imminent, it becomes
35 imprudent, inexpedient, or impossible to conduct the affairs of a
36 political subdivision at the regular or usual place or places, the
37 governing body of the political subdivision may meet at any place

1 within or without the territorial limits of the political subdivision
2 on the call of the presiding official or any two members of the
3 governing body. After any emergency relocation, the affairs of
4 political subdivisions shall be lawfully conducted at such emergency
5 temporary location or locations for the duration of the emergency.

6 NEW SECTION. **Sec. 11.** Sections 4 through 10 of this act take
7 effect if the proposed amendment to Article II, section 42 of the
8 state Constitution providing governmental continuity during emergency
9 periods resulting from a catastrophic incident (House Joint
10 Resolution No. 4200 or Senate Joint Resolution No. 8200) is validly
11 submitted to and is approved and ratified by the voters at the next
12 general election. If the proposed amendment is not approved and
13 ratified, sections 4 through 10 of this act are void in their
14 entirety.

15 NEW SECTION. **Sec. 12.** If specific funding for the purposes of
16 this act, referencing this act by bill or chapter number, is not
17 provided by June 30, 2019, in the omnibus appropriations act, this
18 act is null and void.

--- END ---