

# HOUSE BILL REPORT

## HB 2263

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### As Reported by House Committee On:

Public Safety  
Appropriations

**Title:** An act relating to governmental continuity during emergency periods.

**Brief Description:** Concerning governmental continuity during emergency periods.

**Sponsors:** Representatives Goodman, MacEwen, Muri, Kilduff, Hayes, Reeves, Chapman, Haler, Johnson, Tarleton, Tharinger, Hudgins, Dent, Van Werven, Fey, Eslick, McBride, Slatter, Dolan, Valdez, Stanford, Macri, Appleton, Ormsby, Ryu, Lovick, Doglio and Gregerson.

### Brief History:

#### Committee Activity:

Public Safety: 1/11/18, 1/18/18 [DPS];  
Appropriations: 2/1/18, 2/6/18 [DPS(PS)].

#### Brief Summary of Substitute Bill

- Expands the Continuity of Government Act to provide continuity of government procedures for catastrophic incidents, rather than only enemy attacks.
- Requires the Washington Military Department to develop and manage an education program for state and local government officials regarding catastrophic incidents and continuity of government planning.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

**Staff:** Omeara Harrington (786-7136).

### Background:

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*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 Military Department under the direction of the Adjutant General administers the state's comprehensive program of emergency management. The Adjutant General is responsible for developing a comprehensive, all-hazard emergency plan for the state that includes an analysis of natural, technological, or human-caused hazards, and procedures to coordinate local and state resources in responding to such hazards. The Adjutant General is also responsible for managing a program for interagency coordination and prioritization of government 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.

The Continuity of Government Act provides direction for the continuity of government operations in the event of an attack taken against the United States in the State of Washington. An "attack" is defined as any act of warfare taken by an enemy of the United States causing substantial damage or injury to persons or property in the United States and in the State of Washington.

Under the Continuity of Government Act, following an enemy attack:

- If the Governor and all successors of the Office of the Governor are unavailable, the powers and duties of the Governor must be exercised and discharged by the Speaker of the House of Representatives.
- The Governor must call the Legislature into session as soon as practicable, and in any case within 30 days following the inception of the attack. The Governor may call the Legislature into emergency session in an alternative location in Washington or an adjoining state if he or she deems it impracticable for the Legislature to convene in its usual Olympia location. If the Governor fails to issue the call of the Legislature into session, the Legislature must convene at a place where the Governor has his or her office on the thirtieth day following the date of the inception of the attack. Limits on the length of session, and subjects that may be considered, are suspended.
- If the number of legislators available for duty is reduced, the remaining legislators that are available for duty will constitute the Legislature and will have the power to act by the majority of those present. All quorum requirements are suspended, and in instances where an affirmative vote is needed of a specified proportion of members for an approval of a bill, the same proportion of those voting is sufficient.
- If the number of county commissioners of a county has been reduced, or city or town councilmembers or commission members has been reduced, the remaining members available for duty have full authority to act on all matters by majority vote present.
- If the executive head of any city or town is unavailable to fulfill his or her responsibility, the available members of the city or town council or commission must select one of their members by majority vote to act as executive head of the city or town.
- If it becomes impossible to conduct affairs of a political subdivision at its usual location, the governing body may meet at an alternative location.

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### **Summary of Substitute Bill:**

The procedures outlined in the Continuity of Government Act apply to all catastrophic incidents, rather than only enemy attacks. A "catastrophic incident" is 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, public morale, or government functions. "Attack" is redefined as an act of aggression taken against the United States causing substantial damage or injury to persons or property in the United States and in the State of Washington.

For purposes of the Continuity of Government Act, an "emergency or disaster" means an event or set of circumstances which either 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 that reaches such a dimension or degree of destructiveness as to warrant the Governor proclaiming a state of emergency.

The Adjutant General of the Military Department is responsible for the development and management of an educational program for state and local government officials regarding catastrophic incidents and continuity of government planning. The purpose of the program is to assist with statewide development of continuity of government plans by all levels and branches of state and local government that address how essential government functions and services will continue to be provided following a catastrophic incident.

"Continuity of government planning" is defined as the internal effort of all levels and branches of government to provide that the capability exists to continue essential functions and services following a catastrophic incident. Examples include: orderly succession of leadership; filling vacancies; interoperability communications; and procedures to reconvene government following periods of disruption. Continuity of government planning is intended to preserve the constitutional and statutory authority of elected officials and provide for continued performance of essential functions and services of government.

**Substitute Bill Compared to Original Bill:**

Current law references to "enemy attack" are removed (however, "enemy attack" remains included in the definition of "catastrophic incident"). The Continuity of Government Act provisions go into effect upon ratification of the constitutional amendment proposed in either House Joint Resolution 4210 (HJR 4210) or Senate Joint Resolution 8211, as opposed to only upon ratification of HJR 4210.

All other provisions of the bill are retained.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 4 through 10, relating to continuity of government operations in the event of a catastrophic incident, which take effect only if the

proposed amendment to Article II, section 42 of the state Constitution is approved and ratified by the voters at the next general election. If the proposed amendment is not ratified, sections 4 through 10, are null and void.

**Staff Summary of Public Testimony:**

(In support) The Cascadia fault earthquake could happen at any time, and will truly be a catastrophic incident. It is imperative that government continues following catastrophic incidents resulting in extreme levels of mass casualties, damage, and destruction. It is important to provide for the continuation of essential services, including orderly succession, filling vacancies, interoperability procedures, and procedures to reconvene government.

Both statute and the state Constitution need to be amended to expand the current continuity of government provisions, which only reference enemy attack. These provisions went into place during the Cold War and were focused on nuclear threat. Continuity of government is also needed during other disasters, both natural and man-made, like terrorism. Floods and wildfires may affect a region, but will not interfere with the operation of government. This bill would only apply to big incidents, as opposed to regionally focused disasters. Some definitional changes may be necessary as the bill moves forward.

(Opposed) None.

**Persons Testifying:** Representative Goodman, prime sponsor; and Jason Marquiss, Washington Military Department.

**Persons Signed In To Testify But Not Testifying:** None.

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**HOUSE COMMITTEE ON APPROPRIATIONS**

**Majority Report:** The substitute bill by Committee on Public Safety be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Caldier, Cody, Condotta, Fitzgibbon, Graves, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Pettigrew, Pollet, Sawyer, Schmick, Senn, Springer, Stanford, Sullivan, Tharinger, Vick and Volz.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Buys, Taylor and Wilcox.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Manweller.

**Staff:** Meghan Morris (786-7119).

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Public Safety:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Following catastrophic incidents that result in extraordinary levels of mass casualties, or disruptions, it is critical that important government services continue. To successfully maintain continuity, all levels of government must cooperatively plan and prepare to fulfill their responsibilities required by statute and the state Constitution. This legislation and House Joint Resolution 4210 expand the ability to plan for continuity of government beyond "enemy attack." Additionally, the clear definitions of "continuity of government" and "catastrophic incidents" will help clarify the law so continuity of government and continuity of operations, separate but important concepts, can be understood and accomplished at all levels of government across the state. With the minimal resourcing of one full-time employee, the Washington Military Department Emergency Management Division can develop and manage a statewide program that provides information and education to state and local governments to assist with planning. This bill ensures state and local governments have executable continuity of government plans in the event of a catastrophic event.

(Opposed) None.

**Persons Testifying:** Representative Robinson; and Robert Ezelle, Washington Military Department.

**Persons Signed In To Testify But Not Testifying:** None.