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HOUSE BILL 2263

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State of Washington

65th Legislature

2018 Regular Session

By 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, and Doglio

Prefiled 12/06/17. Read first time 01/08/18. Referred to Committee on Public Safety.

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 a  
4 new section; 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) "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, public morale, or government functions.

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

9       ~~((+2))~~ (3) "Continuity of government planning" means the  
10 internal effort of all levels and branches of government to provide  
11 that the capability exists to continue essential functions and  
12 services following a catastrophic incident. These efforts include,  
13 but are not limited to, providing for: (a) Orderly succession and  
14 appropriate changes of leadership whether appointed or elected; (b)  
15 filling vacancies; (c) interoperability communications; and (d)  
16 processes and procedures to reconvene government following periods of  
17 disruption that may be caused by a catastrophic incident. Continuity  
18 of government planning is intended to preserve the constitutional and  
19 statutory authority of elected officials at the state and local level  
20 and provide for the continued performance of essential functions and  
21 services by each level and branch of government.

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

26       ~~((+3))~~ (5) "Department" means the state military department.

27       ~~((+4))~~ (6) "Director" means the adjutant general.

28       ~~((+5))~~ (7) "Emergency management" or "comprehensive emergency  
29 management" means the preparation for and the carrying out of all  
30 emergency functions, other than functions for which the military  
31 forces are primarily responsible, to mitigate, prepare for, respond  
32 to, and recover from emergencies and disasters, and to aid victims  
33 suffering from injury or damage, resulting from disasters caused by  
34 all hazards, whether natural, technological, or human caused, and to  
35 provide support for search and rescue operations for persons and  
36 property in distress. However, "emergency management" or  
37 "comprehensive emergency management" does not mean preparation for  
38 emergency evacuation or relocation of residents in anticipation of  
39 nuclear attack.

1       (~~(6)~~) (8)(a) "Emergency or disaster" as used in all sections of  
2 this chapter except RCW 38.52.430 (~~(shall)~~) means an event or set of  
3 circumstances which: (i) Demands immediate action to preserve public  
4 health, protect life, protect public property, or to provide relief  
5 to any stricken community overtaken by such occurrences; or (ii)  
6 reaches such a dimension or degree of destructiveness as to warrant  
7 the governor (~~(declaring)~~) proclaiming a state of emergency pursuant  
8 to RCW 43.06.010.

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

13       (~~(7)~~) (9) "Emergency response" as used in RCW 38.52.430 means a  
14 public agency's use of emergency services during an emergency or  
15 disaster as defined in subsection (~~(6)~~) (8)(b) of this section.

16       (~~(8)~~) (10) "Emergency worker" means any person who is  
17 registered with a local emergency management organization or the  
18 department and holds an identification card issued by the local  
19 emergency management director or the department for the purpose of  
20 engaging in authorized emergency management activities or is an  
21 employee of the state of Washington or any political subdivision  
22 thereof who is called upon to perform emergency management  
23 activities.

24       (~~(9)~~) (11) "Executive head" and "executive heads" means the  
25 county executive in those charter counties with an elective office of  
26 county executive, however designated, and, in the case of other  
27 counties, the county legislative authority. In the case of cities and  
28 towns, it means the mayor in those cities and towns with mayor-  
29 council or commission forms of government, where the mayor is  
30 directly elected, and it means the city manager in those cities and  
31 towns with council manager forms of government. Cities and towns may  
32 also designate an executive head for the purposes of this chapter by  
33 ordinance.

34       (~~(10)~~) (12) "Expense of an emergency response" as used in RCW  
35 38.52.430 means reasonable costs incurred by a public agency in  
36 reasonably making an appropriate emergency response to the incident,  
37 but shall only include those costs directly arising from the response  
38 to the particular incident. Reasonable costs shall include the costs  
39 of providing police, coroner, firefighting, rescue, emergency medical

1 services, or utility response at the scene of the incident, as well  
2 as the salaries of the personnel responding to the incident.

3 ~~((11))~~ (13) "Incident command system" means: (a) An all-  
4 hazards, on-scene functional management system that establishes  
5 common standards in organization, terminology, and procedures;  
6 provides a means (unified command) for the establishment of a common  
7 set of incident objectives and strategies during multiagency/  
8 multijurisdiction operations while maintaining individual agency/  
9 jurisdiction authority, responsibility, and accountability; and is a  
10 component of the national interagency incident management system; or  
11 (b) an equivalent and compatible all-hazards, on-scene functional  
12 management system.

13 ~~((12))~~ (14) "Injury" as used in this chapter shall mean and  
14 include accidental injuries and/or occupational diseases arising out  
15 of emergency management activities.

16 ~~((13))~~ (15) "Life safety information" means information  
17 provided to people during a response to a life-threatening emergency  
18 or disaster informing them of actions they can take to preserve their  
19 safety. Such information may include, but is not limited to,  
20 information regarding evacuation, sheltering, sheltering-in-place,  
21 facility lockdown, and where to obtain food and water.

22 ~~((14))~~ (16) "Local director" means the director of a local  
23 organization of emergency management or emergency services.

24 ~~((15))~~ (17) "Local organization for emergency services or  
25 management" means an organization created in accordance with the  
26 provisions of this chapter by state or local authority to perform  
27 local emergency management functions.

28 ~~((16))~~ (18) "Political subdivision" means any county, city or  
29 town.

30 ~~((17))~~ (19) "Public agency" means the state, and a city,  
31 county, municipal corporation, district, town, or public authority  
32 located, in whole or in part, within this state which provides or may  
33 provide firefighting, police, ambulance, medical, or other emergency  
34 services.

35 ~~((18))~~ (20) "Radio communications service company" has the  
36 meaning ascribed to it in RCW 82.14B.020.

37 ~~((19))~~ (21) "Search and rescue" means the acts of searching  
38 for, rescuing, or recovering by means of ground, marine, or air  
39 activity any person who becomes lost, injured, or is killed while  
40 outdoors or as a result of a natural, technological, or human caused

1 disaster, including instances involving searches for downed aircraft  
2 when ground personnel are used. Nothing in this section shall affect  
3 appropriate activity by the department of transportation under  
4 chapter 47.68 RCW.

5 **Sec. 3.** RCW 38.52.030 and 2015 c 61 s 3 are each amended to read  
6 as follows:

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

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

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

38 (4) In accordance with the comprehensive emergency management  
39 plans and the programs for the emergency management of this state,

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

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

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

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

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

27 (9) The director, subject to the direction and control of the  
28 governor, shall prepare and administer a state program for emergency  
29 assistance to individuals within the state who are victims of a  
30 natural, technological, or human caused disaster, as defined by RCW  
31 38.52.010(~~(+5)~~). Such program may be integrated into and coordinated  
32 with disaster assistance plans and programs of the federal government  
33 which provide to the state, or through the state to any political  
34 subdivision thereof, services, equipment, supplies, materials, or  
35 funds by way of gift, grant, or loan for purposes of assistance to  
36 individuals affected by a disaster. Further, such program may  
37 include, but shall not be limited to, grants, loans, or gifts of  
38 services, equipment, supplies, materials, or funds of the state, or  
39 any political subdivision thereof, to individuals who, as a result of  
40 a disaster, are in need of assistance and who meet standards of

1 eligibility for disaster assistance established by the department of  
2 social and health services: PROVIDED, HOWEVER, That nothing herein  
3 shall be construed in any manner inconsistent with the provisions of  
4 Article VIII, section 5 or section 7 of the Washington state  
5 Constitution.

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

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

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

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

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

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

30 (12) The director is responsible to the governor to lead the  
31 development and management of a program to provide information and  
32 education to state and local government officials regarding  
33 catastrophic incidents and continuity of government planning to  
34 assist with statewide development of continuity of government plans  
35 by all levels and branches of state and local government that address  
36 how essential government functions and services will continue to be  
37 provided following a catastrophic incident.

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

1 Unless otherwise clearly required by the context, the following  
2 definitions apply:

3 (1) "Unavailable" means either that a vacancy in the office  
4 exists or that the lawful incumbent of the office is absent or unable  
5 to exercise the powers and discharge the duties of the office  
6 following ~~((a))~~ a catastrophic incident or attack and a  
7 ~~((declaration))~~ proclamation of existing emergency by the governor or  
8 his or her successor.

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

13 (3) "Catastrophic incident" means any natural or human-caused  
14 incident, including terrorism and enemy attack, that results in  
15 extraordinary levels of mass casualties, damage, or disruption  
16 severely affecting the population, infrastructure, environment,  
17 economy, public morale, or government functions.

18 (4) "Emergency or disaster" means an event or set of  
19 circumstances which: (a) Demands immediate action to preserve public  
20 health, protect life, protect public property, or to provide relief  
21 to any stricken community overtaken by such occurrences; or (b)  
22 reaches such a dimension or degree of destructiveness as to warrant  
23 the governor proclaiming a state of emergency pursuant to RCW  
24 43.06.010.

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

27 (1) In the event that all successors to the office of governor as  
28 provided by Article 3, section 10, as amended by amendment 6 of the  
29 Constitution of the state of Washington are unavailable following  
30 ~~((a))~~ a catastrophic incident or enemy attack, the powers and duties  
31 of the office of governor shall be exercised and discharged by the  
32 speaker of the house of representatives.

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

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



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

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

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

27       Whenever, in the judgment of the governor, it becomes  
28 impracticable, due to an emergency resulting from a catastrophic  
29 incident or enemy attack ((~~or natural disaster~~)), to convene the  
30 legislature in the usual seat of government at Olympia, the governor  
31 may call the legislature into emergency session in any location  
32 within this or an adjoining state. The first order of business of any  
33 legislature so convened shall be the establishment of temporary  
34 emergency seats of government for the state. After any emergency  
35 relocation, the affairs of state government shall be lawfully  
36 conducted at such emergency temporary location or locations for the  
37 duration of the emergency.

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

3       In the event that a catastrophic incident or enemy attack reduces  
4 the number of county commissioners of any county, then those  
5 commissioners available for duty shall have full authority to act in  
6 all matters as a board of county commissioners. In the event no  
7 county commissioner is available for duty, then those elected county  
8 officials, except for the members of the county board of education,  
9 as are available for duty shall jointly act as the board of county  
10 commissioners and shall possess by majority vote the full authority  
11 of the board of county commissioners.

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

14       In the event that the executive head of any city or town is  
15 unavailable by reason of a catastrophic incident or enemy attack to  
16 exercise the powers and discharge the duties of the office, then  
17 those members of the city or town council or commission available for  
18 duty shall by majority vote select one of their number to act as the  
19 executive head of such city or town. In the event that a catastrophic  
20 incident or enemy attack reduces the number of city or town  
21 councilmembers or commission members, then those members available  
22 for duty shall have full power to act by majority vote of those  
23 present.

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

26       Whenever, due to a (~~natural disaster, an~~) catastrophic incident  
27 or enemy attack, or when such an (~~attack~~) event is imminent, it  
28 becomes imprudent, inexpedient, or impossible to conduct the affairs  
29 of a political subdivision at the regular or usual place or places,  
30 the governing body of the political subdivision may meet at any place  
31 within or without the territorial limits of the political subdivision  
32 on the call of the presiding official or any two members of the  
33 governing body. After any emergency relocation, the affairs of  
34 political subdivisions shall be lawfully conducted at such emergency  
35 temporary location or locations for the duration of the emergency.

36       NEW SECTION. **Sec. 11.** Sections 4 through 10 of this act take  
37 effect if the proposed amendment to Article II, section 42 of the

1 state Constitution providing governmental continuity during emergency  
2 periods resulting from a catastrophic incident (House Joint  
3 Resolution No. . . . (H-3059.1/18)) is validly submitted to and is  
4 approved and ratified by the voters at the next general election. If  
5 the proposed amendment is not approved and ratified, sections 4  
6 through 10 of this act are void in their entirety.

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