

SSB 5012 - H COMM AMD
By Committee on Appropriations

ADOPTED 04/17/2019

1 Strike everything after the enacting clause and insert the
2 following:

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

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

16 As used in this chapter:

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

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

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

28 ~~((2))~~ (3) "Continuity of government planning" means the
29 internal effort of all levels and branches of government to provide
30 that the capability exists to continue essential functions and
31 services following a catastrophic incident. These efforts include,

1 but are not limited to, providing for: (a) Orderly succession and
2 appropriate changes of leadership whether appointed or elected; (b)
3 filling vacancies; (c) interoperability communications; and (d)
4 processes and procedures to reconvene government following periods of
5 disruption that may be caused by a catastrophic incident. Continuity
6 of government planning is intended to preserve the constitutional and
7 statutory authority of elected officials at the state and local level
8 and provide for the continued performance of essential functions and
9 services by each level and branch of government.

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

14 (~~(3)~~) (5) "Department" means the state military department.

15 (~~(4)~~) (6) "Director" means the adjutant general.

16 (~~(5)~~) (7) "Emergency management" or "comprehensive emergency
17 management" means the preparation for and the carrying out of all
18 emergency functions, other than functions for which the military
19 forces are primarily responsible, to mitigate, prepare for, respond
20 to, and recover from emergencies and disasters, and to aid victims
21 suffering from injury or damage, resulting from disasters caused by
22 all hazards, whether natural, technological, or human caused, and to
23 provide support for search and rescue operations for persons and
24 property in distress. However, "emergency management" or
25 "comprehensive emergency management" does not mean preparation for
26 emergency evacuation or relocation of residents in anticipation of
27 nuclear attack.

28 (~~(6)~~) (8)(a) "Emergency or disaster" as used in all sections of
29 this chapter except RCW 38.52.430 (~~shall~~) means an event or set of
30 circumstances which: (i) Demands immediate action to preserve public
31 health, protect life, protect public property, or to provide relief
32 to any stricken community overtaken by such occurrences; or (ii)
33 reaches such a dimension or degree of destructiveness as to warrant
34 the governor (~~declaring~~) proclaiming a state of emergency pursuant
35 to RCW 43.06.010.

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

1 ~~((7))~~ (9) "Emergency response" as used in RCW 38.52.430 means a
2 public agency's use of emergency services during an emergency or
3 disaster as defined in subsection ~~((6))~~ (8)(b) of this section.

4 ~~((8))~~ (10) "Emergency worker" means any person who is
5 registered with a local emergency management organization or the
6 department and holds an identification card issued by the local
7 emergency management director or the department for the purpose of
8 engaging in authorized emergency management activities or is an
9 employee of the state of Washington or any political subdivision
10 thereof who is called upon to perform emergency management
11 activities.

12 ~~((9))~~ (11) "Executive head" and "executive heads" means the
13 county executive in those charter counties with an elective office of
14 county executive, however designated, and, in the case of other
15 counties, the county legislative authority. In the case of cities and
16 towns, it means the mayor in those cities and towns with mayor-
17 council or commission forms of government, where the mayor is
18 directly elected, and it means the city manager in those cities and
19 towns with council manager forms of government. Cities and towns may
20 also designate an executive head for the purposes of this chapter by
21 ordinance.

22 ~~((10))~~ (12) "Expense of an emergency response" as used in RCW
23 38.52.430 means reasonable costs incurred by a public agency in
24 reasonably making an appropriate emergency response to the incident,
25 but shall only include those costs directly arising from the response
26 to the particular incident. Reasonable costs shall include the costs
27 of providing police, coroner, firefighting, rescue, emergency medical
28 services, or utility response at the scene of the incident, as well
29 as the salaries of the personnel responding to the incident.

30 ~~((11))~~ (13) "Incident command system" means: (a) An all-
31 hazards, on-scene functional management system that establishes
32 common standards in organization, terminology, and procedures;
33 provides a means (unified command) for the establishment of a common
34 set of incident objectives and strategies during multiagency/
35 multijurisdiction operations while maintaining individual agency/
36 jurisdiction authority, responsibility, and accountability; and is a
37 component of the national interagency incident management system; or
38 (b) an equivalent and compatible all-hazards, on-scene functional
39 management system.

1 (~~(12)~~) (14) "Injury" as used in this chapter shall mean and
2 include accidental injuries and/or occupational diseases arising out
3 of emergency management activities.

4 (~~(13)~~) (15) "Life safety information" means information
5 provided to people during a response to a life-threatening emergency
6 or disaster informing them of actions they can take to preserve their
7 safety. Such information may include, but is not limited to,
8 information regarding evacuation, sheltering, sheltering-in-place,
9 facility lockdown, and where to obtain food and water.

10 (~~(14)~~) (16) "Local director" means the director of a local
11 organization of emergency management or emergency services.

12 (~~(15)~~) (17) "Local organization for emergency services or
13 management" means an organization created in accordance with the
14 provisions of this chapter by state or local authority to perform
15 local emergency management functions.

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

18 (~~(17)~~) (19) "Public agency" means the state, and a city,
19 county, municipal corporation, district, town, or public authority
20 located, in whole or in part, within this state which provides or may
21 provide firefighting, police, ambulance, medical, or other emergency
22 services.

23 (~~(18)~~) (20) "Radio communications service company" has the
24 meaning ascribed to it in RCW 82.14B.020.

25 (~~(19)~~) (21) "Search and rescue" means the acts of searching
26 for, rescuing, or recovering by means of ground, marine, or air
27 activity any person who becomes lost, injured, or is killed while
28 outdoors or as a result of a natural, technological, or human caused
29 disaster, including instances involving searches for downed aircraft
30 when ground personnel are used. Nothing in this section shall affect
31 appropriate activity by the department of transportation under
32 chapter 47.68 RCW.

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

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

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

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

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

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

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

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

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

16 (9) The director, subject to the direction and control of the
17 governor, shall prepare and administer a state program for emergency
18 assistance to individuals within the state who are victims of a
19 natural, technological, or human caused disaster, as defined by RCW
20 38.52.010(6). Such program may be integrated into and coordinated
21 with disaster assistance plans and programs of the federal government
22 which provide to the state, or through the state to any political
23 subdivision thereof, services, equipment, supplies, materials, or
24 funds by way of gift, grant, or loan for purposes of assistance to
25 individuals affected by a disaster. Further, such program may
26 include, but shall not be limited to, grants, loans, or gifts of
27 services, equipment, supplies, materials, or funds of the state, or
28 any political subdivision thereof, to individuals who, as a result of
29 a disaster, are in need of assistance and who meet standards of
30 eligibility for disaster assistance established by the department of
31 social and health services: PROVIDED, HOWEVER, That nothing herein
32 shall be construed in any manner inconsistent with the provisions of
33 Article VIII, section 5 or section 7 of the Washington state
34 Constitution.

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

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

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

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

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

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

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

22 (13) Subject to the availability of amounts appropriated for this
23 specific purpose, the director is responsible to the governor to lead
24 the development and management of a program to provide information
25 and education to state and local government officials regarding
26 catastrophic incidents and continuity of government planning to
27 assist with statewide development of continuity of government plans
28 by all levels and branches of state and local government that address
29 how essential government functions and services will continue to be
30 provided following a catastrophic incident.

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

33 Unless otherwise clearly required by the context, the following
34 definitions apply:

35 (1) "Unavailable" means either that a vacancy in the office
36 exists or that the lawful incumbent of the office is absent or unable
37 to exercise the powers and discharge the duties of the office
38 following ~~((an attack))~~ a catastrophic incident and a ~~((declaration))~~

1 proclamation of existing emergency by the governor or his or her
2 successor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 NEW SECTION. **Sec. 11.** Sections 4 through 10 of this act take
35 effect if the proposed amendment to Article II, section 42 of the
36 state Constitution providing governmental continuity during emergency
37 periods resulting from a catastrophic incident (House Joint

1 Resolution No. 4200 or Senate Joint Resolution No. 8200) is validly
2 submitted to and is approved and ratified by the voters at the next
3 general election. If the proposed amendment is not approved and
4 ratified, sections 4 through 10 of this act are void in their
5 entirety.

6 NEW SECTION. **Sec. 12.** If specific funding for the purposes of
7 this act, referencing this act by bill or chapter number, is not
8 provided by June 30, 2019, in the omnibus appropriations act, this
9 act is null and void."

10 Correct the title.

EFFECT: Provides that the definition of "catastrophic incident"
does not include an event resulting from individuals exercising their
First Amendment rights to freedom of speech and peaceable assembly.
Adds a null and void clause. The bill is null and void unless funded
in the budget.

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