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SECOND SUBSTITUTE SENATE BILL 6433

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State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Kastama, Jacobsen, Poulsen, Pridemore, Rockefeller, Shin, Haugen, Rasmussen, Keiser, Regala, Thibaudeau, Franklin, McAuliffe and Kohl-Welles)

READ FIRST TIME 02/7/06.

1 AN ACT Relating to establishing the emergency management,  
2 preparedness, and assistance account; amending RCW 48.18.170 and  
3 48.18.180; adding new sections to chapter 38.52 RCW; creating new  
4 sections; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that recent events,  
7 including the 9/11 terrorist acts, the tsunami in southeast Asia,  
8 Hurricanes Katrina and Rita in the gulf coast, outbreaks of avian flu,  
9 and the earthquake in Pakistan, have demonstrated the need for a  
10 coordinated, comprehensive all-hazards disaster plan involving  
11 citizens, industry, local governments, and the state. Washington  
12 state's topography, geography, location, and strategic and economic  
13 interests place the state at particular risk from both natural  
14 disasters and man-made disasters. In response, Washington state and  
15 its local governments have implemented nationally recognized all-  
16 hazards emergency management and disaster response plans. However,  
17 recent studies have revealed the lack of a secure funding source for  
18 resolving impediments to the ability of state and local programs to  
19 integrate and coordinate comprehensive disaster preparedness. In

1 addition, local programs suffer disparities in funding and expertise,  
2 leaving troublesome gaps in a well-coordinated statewide all-hazards  
3 emergency management system.

4 Recognizing that all disasters are local disasters, the legislature  
5 therefore intends to strengthen state and local emergency response,  
6 mitigation, preparation, and coordination by establishing a stable  
7 source of funding with the intent that Washington state become the  
8 nationally recognized leader in emergency management. The funding will  
9 be dedicated to the development and coordination of state and local  
10 government emergency management programs by supporting joint training  
11 exercises, citizen and industry coordination with emergency management  
12 efforts, public education, and relationship building among local and  
13 state emergency management officials.

14 NEW SECTION. **Sec. 2.** The emergency management, preparedness, and  
15 assistance account is created in the state treasury. All receipts from  
16 the surcharge authorized by section 3 of this act must be deposited  
17 into the account. Moneys in the account may be spent only after  
18 appropriation. Expenditures from the account may be used only as  
19 provided in section 4 of this act.

20 NEW SECTION. **Sec. 3.** In order to provide funds for emergency  
21 management, preparedness, and assistance, an annual surcharge of two  
22 dollars per policy must be imposed on every homeowner's, mobile  
23 homeowner's, tenant homeowner's, and condominium unit owner's insurance  
24 policy, and an annual four-dollar surcharge shall be imposed on every  
25 commercial fire, commercial multiple peril, and business owner's  
26 property insurance policy, issued or renewed on or after the effective  
27 date of this section. The surcharge must be paid by the policyholder  
28 to the insurer. The insurer must collect the surcharge and remit it to  
29 the department of revenue, which will collect, administer, audit, and  
30 enforce the surcharge under chapter 82.32 RCW. The surcharge is not to  
31 be considered premiums of the insurer and is not subject to premium  
32 taxes, however, nonpayment of the surcharge by the insured may be a  
33 valid reason for cancellation of the policy. The surcharge imposed on  
34 policyholders under this section is not subject to retaliatory tax  
35 provisions. All proceeds of the surcharge must be deposited in the

1 emergency management, preparedness, and assistance account and may not  
2 be used to supplant existing local funding.

3 NEW SECTION. **Sec. 4.** (1) Funds appropriated from the emergency  
4 management, preparedness, and assistance account must be allocated by  
5 the department as follows:

6 (a) Twenty percent to the military department to be used for  
7 administrative expenses and to fund the assessment required by section  
8 5 of this act; and

9 (b) Eighty percent for grants to regional agencies, local  
10 governments, tribal governments, regional incident management teams,  
11 and private organizations to: Develop and coordinate comprehensive  
12 emergency management plans and train elected and appointed officials on  
13 state laws, ordinances, disaster command and response structures, and  
14 the roles and responsibilities of officials before, during, and after  
15 a disaster; administer periodic joint emergency management training  
16 exercises; and implement projects that will strengthen emergency  
17 response, mitigation, preparation, and coordination.

18 (2) Projects funded under this section must include, but need not  
19 be limited to, projects that will promote neighborhood level public  
20 education on disaster preparedness and recovery issues, situate all  
21 weather radios in public buildings, enhance coordination of relief  
22 efforts of statewide private-sector organizations, and improve the  
23 training and operations capabilities of agencies assigned lead or  
24 support responsibilities in the state comprehensive emergency  
25 management plan.

26 (3) Grant funding may also be used as seed money to establish a  
27 dedicated, full-time emergency management director in every county that  
28 does not have such a director as of the effective date of this section.

29 (4) The department must establish criteria and procedures for  
30 competitive allocation of these funds by rule. At a minimum, the rules  
31 must:

32 (a) Establish preferential funding for projects and exercises  
33 addressing needs and recommendations identified by the department in  
34 the assessment conducted under section 5 of this act;

35 (b) Specify a formula that establishes a base grant allocation and  
36 weighted factors for funds to be allocated over the base grant amount

1 for regional agencies, local governments, tribal governments, regional  
2 incident management teams, and private organizations with existing  
3 emergency management and preparedness programs that are located in a  
4 part of the state where the risk of exposure to disasters is deemed by  
5 the department to be particularly acute;

6 (c) Specify match requirements; and

7 (d) Include requirements that, at a minimum, a local emergency  
8 management agency have: A comprehensive emergency management plan or  
9 be a member of a joint local organization for emergency management; and  
10 a local director who works at least forty hours a week in that  
11 capacity, or have designated by ordinance or resolution an emergency  
12 management coordinator who works at least fifteen hours a week in that  
13 capacity.

14 (5) No more than five percent of any award made under subsection  
15 (1)(b) of this section may be used for administrative expenses.

16 (6) The distribution formula provided in this section may be  
17 adjusted proportionally when necessary to meet any matching  
18 requirements imposed as a condition of receiving federal disaster  
19 relief assistance or planning funds.

20 (7) Local governments receiving funds under this section may not  
21 use the funds to supplant existing funding.

22 NEW SECTION. **Sec. 5.** Beginning in January 2008 and biennially  
23 thereafter, the department must conduct in conjunction with the  
24 emergency management council a strategic assessment of, and issue a  
25 report on, the ability of state, local, and tribal emergency management  
26 organizations to effectively provide for all phases of comprehensive  
27 emergency management. The assessment must:

28 (1) Evaluate state, local, and tribal emergency management  
29 capabilities and needs;

30 (2) Evaluate the ability of state, local, and tribal emergency  
31 management organizations to provide emergency management mitigation,  
32 preparedness, response, and recovery;

33 (3) Evaluate the effectiveness of the emergency management  
34 structure at the state, local, and tribal levels;

35 (4) Provide findings and make recommendations that increase the  
36 ability of state, local, and tribal emergency management organizations  
37 to meet current and future risks; and

1 (5) Detail where and for what purpose funds under section 4(1)(b)  
2 of this act have been distributed.

3 NEW SECTION. **Sec. 6.** The joint legislative audit and review  
4 committee must study and review the performance of programs implemented  
5 under this act. The committee must examine at least the following  
6 factors: The number and type of joint exercises conducted under  
7 section 4 of this act; the number of programs receiving grant money and  
8 the status of those programs; the coordination of comprehensive  
9 emergency management plans between state and local jurisdictions; the  
10 number of training programs administered; the number of comprehensive  
11 emergency management or safety plans created using funds distributed  
12 under section 4 of this act; and the number of emergency preparedness  
13 officials created and trained with funds distributed under this act.  
14 The committee must provide a final report on this review by December  
15 2008. Funds from the emergency management, preparedness, and  
16 assistance account may be provided to the committee for the purposes of  
17 conducting the study.

18 **Sec. 7.** RCW 48.18.170 and 1947 c 79 s .18.17 are each amended to  
19 read as follows:

20 "Premium" as used in this code means all sums charged, received, or  
21 deposited as consideration for an insurance contract or the continuance  
22 thereof. Premium does not include the annual surcharge imposed under  
23 section 3 of this act. Any assessment, or any "membership," "policy,"  
24 "survey," "inspection," "service" or similar fee or charge made by the  
25 insurer in consideration for an insurance contract is deemed part of  
26 the premium.

27 **Sec. 8.** RCW 48.18.180 and 1994 c 203 s 2 are each amended to read  
28 as follows:

29 (1) The premium stated in the policy shall be inclusive of all  
30 fees, charges, premiums, or other consideration charged for the  
31 insurance or for the procurement thereof.

32 (2) No insurer or its officer, employee, agent, solicitor, or other  
33 representative shall charge or receive any fee, compensation, or  
34 consideration for insurance which is not included in the premium  
35 specified in the policy.

1 (3) Each violation of this section is a gross misdemeanor.

2 (4) This section does not apply to a fee paid to a broker by an  
3 insured as provided in RCW 48.17.270.

4 (5) This section does not apply to the surcharge imposed under  
5 section 3 of this act.

6 NEW SECTION. Sec. 9. Sections 2 through 5 of this act are each  
7 added to chapter 38.52 RCW.

8 NEW SECTION. Sec. 10. Sections 4 through 6 of this act take  
9 effect January 1, 2007.

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