

# HOUSE BILL REPORT

## SSB 5012

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**As Reported by House Committee On:**  
Housing, Community Development & Veterans

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

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

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

**Brief History:**

**Committee Activity:**

Housing, Community Development & Veterans: 3/19/19, 3/22/19 [DPA].

**Brief Summary of Substitute Bill  
(As Amended by Committee)**

- 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, subject to appropriation, 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 HOUSING, COMMUNITY DEVELOPMENT & VETERANS

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Ryu, Chair; Morgan, Vice Chair; Jenkin, Ranking Minority Member; Gildon, Assistant Ranking Minority Member; Barkis, Entenman, Frame, Leavitt and Reeves.

**Staff:** Cassie Jones (786-7303).

**Background:**

Emergency Management.

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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.

#### Continuity of Government Act.

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 Amended Bill:**

Subject to appropriation, 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. For purposes of this program, the following definitions apply:

- "Continuity of government planning" means 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.
- "Catastrophic incident" means 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, or government functions.

A "catastrophic incident" does not include an event resulting from individuals exercising their First Amendment rights to freedom of speech and peaceable assembly.

The procedures outlined in the Continuity of Government Act apply to all catastrophic incidents, rather than only enemy attacks. The following definitions are added to the Continuity of Government Act:

- "Catastrophic incident" means 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, or government functions.
- "Attack" is redefined as an act of aggression taken against the United States, rather than an act of warfare 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.
- "Emergency or disaster" means an event or set of circumstances which either: (a) 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 (b) reaches such a dimension or degree of destructiveness as to warrant the Governor proclaiming a state of emergency.

#### **Amended Bill Compared to Substitute Bill:**

The substitute bill 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.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended 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) This bill is important to prepare for catastrophic events like a Cascadia subduction zone earthquake. The reality is that an event will occur at some point that will cause significant damage. Damage may be severe enough to interfere with government operations. We need to have the means to maintain the continuity of government during and after those events at both the local and state level. The current law only allows these procedures for an enemy attack. The proposed amendment regarding the First Amendment is not necessary for maintaining the continuity of government after a catastrophic incident that results in extraordinary damage or mass casualties, but the amendment does not hurt the intent of the bill.

(Opposed) None.

**Persons Testifying:** Senator Takko, prime sponsor; and Robert Ezelle, Washington Military Department.

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