
HOUSE BILL 2319

State of Washington

57th Legislature

2002 Regular Session

By Representatives Buck, Jackley, Lisk, O'Brien, Barlean, Kessler, Schmidt, Ballasiotes, Morris, Benson, Anderson, Haigh and Esser

Read first time 01/14/2002. Referred to Committee on Select Committee on Community Security.

1 AN ACT Relating to emergency management; and amending RCW
2 38.52.010, 38.52.030, 38.52.040, 38.52.070, 38.52.080, 38.52.170, and
3 38.52.180.

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

5 **Sec. 1.** RCW 38.52.010 and 1997 c 49 s 1 are each amended to read
6 as follows:

7 As used in this chapter:

8 (1) "Emergency management" or "comprehensive emergency management"
9 means the preparation for and the carrying out of all emergency
10 functions, other than functions for which the military forces are
11 primarily responsible, to mitigate, prepare for, respond to, and
12 recover from emergencies and disasters, and to aid victims suffering
13 from injury or damage, resulting from disasters caused by all hazards,
14 whether natural, technological, or human caused, and to provide support
15 for search and rescue operations for persons and property in distress.
16 ((However,—"emergency—management"—or—"comprehensive—emergency
17 management"—does not mean preparation for emergency evacuation or
18 relocation of residents in anticipation of nuclear attack.))

1 (2) "Local organization for emergency services or management" means
2 an organization created in accordance with the provisions of this
3 chapter by state or local authority to perform local emergency
4 management functions.

5 (3) "Political subdivision" means any county, city or town.

6 (4) "Emergency worker" means any person, including but not limited
7 to an architect registered under chapter 18.08 RCW or a professional
8 engineer registered under chapter 18.43 RCW, who is registered with a
9 local emergency management organization or the department and holds an
10 identification card issued by the local emergency management director
11 or the department for the purpose of engaging in authorized emergency
12 management activities ~~((or))~~, is an employee of the state of Washington
13 or any political subdivision thereof, or any person impressed into
14 service in accordance with RCW 38.52.110, who is called upon to perform
15 emergency management activities.

16 (5) "Injury" as used in this chapter shall mean and include
17 accidental injuries and/or occupational diseases arising out of
18 emergency management activities, including any injuries or diseases
19 arising out of emergency management activities resulting from
20 destructive operations or attacks by enemies of the United States.

21 (6)(a) "Emergency or disaster" as used in all sections of this
22 chapter except RCW 38.52.430 shall mean an event or set of
23 circumstances, including destructive operations or attacks by enemies
24 of the United States, which: (I) Demands immediate action to preserve
25 public health, protect life, protect public property, or to provide
26 relief to any stricken community overtaken by such occurrences, or (ii)
27 reaches such a dimension or degree of destructiveness as to warrant the
28 governor declaring a state of emergency pursuant to RCW 43.06.010.

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

33 (7) "Search and rescue" means the acts of searching for, rescuing,
34 or recovering by means of ground, marine, or air activity any person
35 who becomes lost, injured, or is killed ~~((while outdoors or))~~ as a
36 result of a natural, technological, or human caused emergency or
37 disaster, or as a result of destructive operations or attacks by
38 enemies of the United States, including instances involving searches
39 for downed aircraft when ground personnel are used. Nothing in this

1 section shall affect appropriate activity by the department of
2 transportation under chapter 47.68 RCW.

3 (8) "Executive head" and "executive heads" means the county
4 executive in those charter counties with an elective office of county
5 executive, however designated, and, in the case of other counties, the
6 county legislative authority. In the case of cities and towns, it
7 means the mayor in those cities and towns with mayor-council or
8 commission forms of government, where the mayor is directly elected,
9 and it means the city manager in those cities and towns with council
10 manager forms of government. Cities and towns may also designate an
11 executive head for the purposes of this chapter by ordinance.

12 (9) "Director" means the adjutant general.

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

15 (11) "Department" means the state military department.

16 (12) "Emergency response" as used in RCW 38.52.430 means a public
17 agency's use of emergency services during an emergency or disaster as
18 defined in subsection (6)(b) of this section.

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

27 (14) "Public agency" means the state, and a city, county, municipal
28 corporation, district, town, or public authority located, in whole or
29 in part, within this state which provides or may provide fire fighting,
30 police, ambulance, medical, or other emergency services.

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

1 **Sec. 2.** RCW 38.52.030 and 1997 c 49 s 2 are each amended to read
2 as follows:

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

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

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

36 (4) In accordance with the comprehensive emergency management plans
37 and the programs for the emergency management of this state, the
38 director shall procure supplies and equipment, institute training
39 programs and public information programs, and shall take all other

1 preparatory steps, including the partial or full mobilization of
2 emergency management organizations in advance of actual disaster, to
3 insure the furnishing of adequately trained and equipped forces of
4 emergency management personnel in time of need.

5 (5) The director shall make such studies and surveys of the
6 industries, resources, and facilities in this state, including federal
7 facilities as provided for in RCW 38.52.170, as may be necessary to
8 ascertain the capabilities of the state for emergency management, and
9 shall plan for the most efficient emergency use thereof.

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

13 (7) The director, through the state enhanced 911 coordinator, shall
14 coordinate and facilitate implementation and operation of a state-wide
15 enhanced 911 emergency communications network.

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

24 (9) The director, subject to the direction and control of the
25 governor, shall prepare and administer a state program for emergency
26 assistance to individuals within the state who are victims of a
27 natural, technological, or human caused disaster, or destructive
28 operations or attacks by enemies of the United States, as defined by
29 RCW 38.52.010(6). Such program may be integrated into and coordinated
30 with disaster assistance plans and programs of the federal government
31 which provide to the state, or through the state to any political
32 subdivision thereof, services, equipment, supplies, materials, or funds
33 by way of gift, grant, or loan for purposes of assistance to
34 individuals affected by a disaster. Further, such program may include,
35 but shall not be limited to, grants, loans, or gifts of services,
36 equipment, supplies, materials, or funds of the state, or any political
37 subdivision thereof, to individuals who, as a result of a disaster, are
38 in need of assistance and who meet standards of eligibility for
39 disaster assistance established by the department of social and health

1 services: PROVIDED, HOWEVER, That nothing herein shall be construed in
2 any manner inconsistent with the provisions of Article VIII, section 5
3 or section 7 of the Washington state Constitution.

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

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

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

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

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

23 **Sec. 3.** RCW 38.52.040 and 1995 c 269 s 1202 are each amended to
24 read as follows:

25 (1) There is hereby created the emergency management council
26 (hereinafter called the council), to consist of not more than seventeen
27 members who shall be appointed by the governor. The membership of the
28 council shall include, but not be limited to, representatives of city
29 and county governments, sheriffs and police chiefs, the Washington
30 state patrol, the military department, the department of ecology, state
31 and local fire chiefs, seismic safety experts, state and local
32 emergency management directors, search and rescue volunteers, medical
33 professions who have expertise in emergency medical care, building
34 officials, and private industry. The representatives of private
35 industry shall include persons knowledgeable in emergency and hazardous
36 materials management, to include chemical, biological, and radiological
37 substances. The council members shall elect a chairman from within the
38 council membership. The members of the council shall serve without

1 compensation, but may be reimbursed for their travel expenses incurred
2 in the performance of their duties in accordance with RCW 43.03.050 and
3 43.03.060 as now existing or hereafter amended.

4 (2) The emergency management council shall advise the governor and
5 the director on all matters pertaining to state and local emergency
6 management. The council may appoint such ad hoc committees,
7 subcommittees, and working groups as are required to develop specific
8 recommendations for the improvement of emergency management practices,
9 standards, policies, or procedures. The council shall ensure that the
10 governor receives an annual assessment of state-wide emergency
11 preparedness including, but not limited to, specific progress on hazard
12 mitigation and reduction efforts, implementation of seismic safety
13 improvements, reduction of flood hazards, contingency planning for
14 destructive operations or attacks by enemies of the United States
15 involving chemical, biological, or radiological weapons, and
16 coordination of hazardous materials planning and response activities.
17 The council shall review administrative rules governing state and local
18 emergency management practices and recommend necessary revisions to the
19 director.

20 (3) The council or a subcommittee thereof shall periodically
21 convene in special session and serve during those sessions as the state
22 emergency response commission required by P.L. 99-499, the emergency
23 planning and community right-to-know act. When sitting in session as
24 the state emergency response commission, the council shall confine its
25 deliberations to those items specified in federal statutes and state
26 administrative rules governing the coordination of hazardous materials
27 policy. (~~The council shall review administrative rules governing~~
28 ~~state and local emergency management practices and recommend necessary~~
29 ~~revisions to the director.~~)

30 **Sec. 4.** RCW 38.52.070 and 1997 c 49 s 4 are each amended to read
31 as follows:

32 (1) Each political subdivision of this state is hereby authorized
33 and directed to establish a local organization or to be a member of a
34 joint local organization for emergency management in accordance with
35 the state comprehensive emergency management plan and program:
36 PROVIDED, That a political subdivision proposing such establishment
37 shall submit its plan and program for emergency management to the state
38 director and secure his or her recommendations thereon, and

1 verification of consistency with the state comprehensive emergency
2 management plan, in order that the plan of the local organization for
3 emergency management may be coordinated with the plan and program of
4 the state. Local comprehensive emergency management plans must specify
5 the use of the incident command system for
6 multiagency/multijurisdiction operations. (~~No political subdivision
7 may be required to include in its plan provisions for the emergency
8 evacuation or relocation of residents in anticipation of nuclear
9 attack.~~) If the director's recommendations are adverse to the plan as
10 submitted, and, if the local organization does not agree to the
11 director's recommendations for modification to the proposal, the matter
12 shall be referred to the council for final action. The director may
13 authorize two or more political subdivisions to join in the
14 establishment and operation of a joint local organization for emergency
15 management as circumstances may warrant, in which case each political
16 subdivision shall contribute to the cost of emergency management upon
17 such fair and equitable basis as may be determined upon by the
18 executive heads of the constituent subdivisions. If in any case the
19 executive heads cannot agree upon the proper division of cost the
20 matter shall be referred to the council for arbitration and its
21 decision shall be final. When two or more political subdivisions join
22 in the establishment and operation of a joint local organization for
23 emergency management each shall pay its share of the cost into a
24 special pooled fund to be administered by the treasurer of the most
25 populous subdivision, which fund shall be known as the
26 emergency management fund. Each local organization or joint local
27 organization for emergency management shall have a director who shall
28 be appointed by the executive head of the political subdivision, and
29 who shall have direct responsibility for the organization,
30 administration, and operation of such local organization for emergency
31 management, subject to the direction and control of such executive
32 officer or officers. In the case of a joint local organization for
33 emergency management, the director shall be appointed by the joint
34 action of the executive heads of the constituent political
35 subdivisions. Each local organization or joint local organization for
36 emergency management shall perform emergency management functions
37 within the territorial limits of the political subdivision within which
38 it is organized, and, in addition, shall conduct such functions outside

1 of such territorial limits as may be required pursuant to the
2 provisions of this chapter.

3 (2) In carrying out the provisions of this chapter each political
4 subdivision, in which any disaster as described in RCW 38.52.020
5 occurs, shall have the power to enter into contracts and incur
6 obligations necessary to combat such disaster, protecting the health
7 and safety of persons and property, and providing emergency assistance
8 to the victims of such disaster. Each political subdivision is
9 authorized to exercise the powers vested under this section in the
10 light of the exigencies of an extreme emergency situation without
11 regard to time-consuming procedures and formalities prescribed by law
12 (excepting mandatory constitutional requirements), including, but not
13 limited to, budget law limitations, requirements of competitive bidding
14 and publication of notices, provisions pertaining to the performance of
15 public work, entering into contracts, the incurring of obligations, the
16 employment of temporary workers, the rental of equipment, the purchase
17 of supplies and materials, the levying of taxes, and the appropriation
18 and expenditures of public funds.

19 **Sec. 5.** RCW 38.52.080 and 1984 c 38 s 8 are each amended to read
20 as follows:

21 (1) Whenever the employees of any political subdivision are
22 rendering outside aid pursuant to the authority contained in RCW
23 38.52.070 such employees shall have the same powers, duties, rights,
24 privileges, and immunities as if they were performing their duties in
25 the political subdivisions in which they are normally employed.

26 (2) The political subdivision in which any equipment is used
27 pursuant to this section shall be liable for any loss or damage thereto
28 and shall pay any expense incurred in the operation and maintenance
29 thereof. No claim for such loss, damage, or expense shall be allowed
30 unless, within sixty days after the same is sustained or incurred, an
31 itemized notice of such claim under oath is served by mail or otherwise
32 upon the executive head of such political subdivision where the
33 equipment was used. The term "employee" as used in this section shall
34 mean, and the provisions of this section shall apply with equal effect
35 to, volunteer auxiliary employees, impressed persons as defined in RCW
36 38.52.110, and emergency workers.

37 (3) The foregoing rights, privileges, and obligations shall also
38 apply in the event such aid is rendered outside the state, provided

1 that payment or reimbursement in such case shall or may be made by the
2 state or political subdivision receiving such aid pursuant to a
3 reciprocal mutual aid agreement or compact with such state or by the
4 federal government.

5 **Sec. 6.** RCW 38.52.170 and 1986 c 266 s 30 are each amended to read
6 as follows:

7 Whenever the director finds that it will be in the interest of the
8 emergency management of this state or of the United States, the
9 director may, with the approval of the governor, agree with the federal
10 government, or any agency thereof carrying on activities within this
11 state, upon a plan of emergency management applicable to a federally
12 owned area, which plan may or may not conform to all of the other
13 provisions of this chapter with the view to integrating federally owned
14 areas into the comprehensive plan and program of the emergency
15 management of this state. Such plan may confer upon persons carrying
16 out such plan any or all of the rights, powers, privileges and
17 immunities granted employees or representatives of the state and/or its
18 political subdivisions by this chapter. ((The plan of emergency
19 management authorized under this section may not include preparation
20 for emergency evacuation or relocation of residents in anticipation of
21 nuclear attack.))

22 **Sec. 7.** RCW 38.52.180 and 1987 c 185 s 7 are each amended to read
23 as follows:

24 (1) There shall be no liability on the part of anyone including any
25 person, partnership, corporation, the state of Washington or any
26 political subdivision thereof who owns or maintains any building or
27 premises which have been designated by a local organization for
28 emergency management as a shelter from destructive operations or
29 attacks by enemies of the United States for any injuries sustained by
30 any person while in or upon said building or premises, as a result of
31 the condition of said building or premises or as a result of any act or
32 omission, or in any way arising from the designation of such premises
33 as a shelter, when such person has entered or gone upon or into said
34 building or premises for the purpose of seeking refuge therein during
35 destructive operations or attacks by enemies of the United States or
36 during tests ordered by lawful authority, except for an act of wilful

1 negligence by such owner or occupant or his servants, agents, or
2 employees.

3 (2) All legal liability for damage to property or injury or death
4 to persons (except an emergency worker (~~(, regularly enrolled and acting~~
5 ~~as such)~~) as defined in RCW 38.52.010(4)), caused by acts done, or
6 attempted, under the color of this chapter in a bona fide attempt to
7 comply therewith shall be the obligation of the state of Washington.
8 Suits may be instituted and maintained against the state for the
9 enforcement of such liability, or for the indemnification of persons
10 appointed (~~and~~), regularly enrolled, or working as emergency workers
11 while actually engaged in emergency management duties, or as members of
12 any agency of the state or political subdivision thereof engaged in
13 emergency management activity, or their dependents, for damage done to
14 their private property, or for any judgment against them for acts done
15 in good faith in compliance with this chapter: PROVIDED, That the
16 foregoing shall not be construed to result in indemnification in any
17 case of wilful misconduct, gross negligence or bad faith on the part of
18 any agent of emergency management: PROVIDED, That should the United
19 States or any agency thereof, in accordance with any federal statute,
20 rule or regulation, provide for the payment of damages to property
21 and/or for death or injury as provided for in this section, then and in
22 that event there shall be no liability or obligation whatsoever upon
23 the part of the state of Washington for any such damage, death, or
24 injury for which the United States government assumes liability.

25 (3) Any requirement for a license to practice any professional,
26 mechanical or other skill shall not apply to any authorized emergency
27 worker who shall, in the course of performing his duties as such,
28 practice such professional, mechanical or other skill during an
29 emergency described in this chapter.

30 (4) The provisions of this section shall not affect the right of
31 any person to receive benefits to which he would otherwise be entitled
32 under this chapter, or under the workers' compensation law, or under
33 any pension or retirement law, nor the right of any such person to
34 receive any benefits or compensation under any act of congress.

--- END ---