

HOUSE BILL REPORT

HB 2124

As Reported by House Committee On: Public Safety

Title: An act relating to the continuity of government and operations in the event of an emergency, disaster, or attack.

Brief Description: Concerning the continuity of government and operations in the event of an emergency, disaster, or attack.

Sponsors: Representatives S. Hunt, Appleton, Johnson, Seaquist, Goodman, Pedersen, Moscoso, Klippert, Morrell, Orwall, Tarleton, Green, Smith, Zeiger, Van De Wege, Ryu, Bergquist, Riccelli and Freeman; by request of Washington Military Department and State Auditor.

Brief History:

Committee Activity:

Public Safety: 1/21/14, 1/24/14 [DPS].

Brief Summary of Substitute Bill

- Requires the Washington Military Department to develop and implement a program for interagency coordination of continuity of operations planning by state agencies, boards, and commissions.
- Defines "continuity of operations planning."

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

Staff: Yvonne Walker (786-7841).

Background:

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. In the event of a disaster beyond local control, the Governor, through the Adjutant General, may assume operational control over all or any part of emergency management functions in the state.

In the Governor's directive 13-02, Governor Inslee required that in order for state executive branch organizations to provide essential functions and services during an emergency or disaster that it is essential that each individual agency, board, commission, and council develop a Continuity of Operations Plan (COOP) for their organization. The COOP plan of each agency must not only ensure its ability to deliver essential functions and services to the citizens of the state during any disaster or emergency, but agencies must coordinate actions to ensure that essential functions that overlap with other agencies continue without interruption.

Summary of Substitute Bill:

The Washington Military Department must provide for the overall development and exercise of continuity of operations plans by the state. The Adjutant General is responsible to the Governor for developing and implementing a program for interagency coordination of continuity of operations planning by state agencies, boards, and commissions. Each state agency, board, and commission must develop its own organizational continuity of operations plan that is updated and exercised annually in compliance with the program for interagency coordination of the COOP.

"Continuity of operations planning" is defined as the internal effort of an organization to assure that the capability exists to continue essential functions and services in response to a comprehensive array of potential emergencies or disasters.

Substitute Bill Compared to Original Bill:

All sections of the act that amended and expanded the Continuity of Government Act which provided for the continuity of government and operations in the event of an emergency or disaster were eliminated.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This proposal came out of the Interagency State Workgroup for Continuity Planning (group). The group felt that if there was a large-scale disaster that occurred in the state that there would be a lack of legal provisions that explained how government would continue to function. Current constitutionality and statutory provisions addressing continuity of government were primarily written to address the 1960s Cold War Defense era when there was a concern about enemy attacks.

This bill authorizes the government to fill those voids in government vacancies in the case of such an emergency and gets rid of any legal ambiguity that exists. The continuity of government provisions in this bill simply updates the language in the statute to recognize the need for governmental continuity not only due to an enemy attack but also due to an emergency or disaster. The changes will ensure the continuity of services to citizens in the event of an emergency or disaster. The changes do not expand or extend emergency or governmental powers other than to recognize the need for continuous government in an emergency or disaster. Nothing in this bill touches upon the declaration of martial law, federal government, or the military.

Washington's Emergency Management Act is the main chapter that governs the functioning of emergency management response. Under that chapter, the Emergency Management Division of the Washington Military Department has written a comprehensive emergency management plan. This plan details how all state agencies will help local governments during an emergency disaster. Those functions are also not being changed by this bill.

(With concerns) There are concerns around the reduced quorum requirements for the Legislature. One suggestion is that the reduced quorum requirement be proportional to the number of legislators that are incapacitated or otherwise unavailable.

(Opposed) Although there is a need for continuity of government, this bill goes too far, especially as it defines emergency or disaster as the need to protect public property. This is a vague reason to declare martial law.

It is felt that an amendment to the state Constitution is not needed to make it easier for the government to declare martial law. The new wording being proposed in the bill would make just about anything grounds for martial law. Martial law denies citizens their freedom and liberty and relieves them of the right to bear arms. Based upon an article on the Internet, it states that the continuity of government program was designed to give federal government powers in the event of a nuclear attack. Now it seems like this bill will go from extending government powers due to a nuclear attack to extending those powers during any type of disaster or emergency attack.

There is also opposition that this bill will allow for legislation to be passed without representation of a quorum.

Persons Testifying: (In support) Representative S. Hunt, prime sponsor; B.G. Wallace Turner, Washington Military Department; and Joe Panesko, Office of the Attorney General.

(With concerns) Chris Kaasa, American Civil Liberties Union of Washington.

(Opposed) Robin Roy, Hal Washburn, and Dave Stiles, Oathkeepers; and Arthur West.

Persons Signed In To Testify But Not Testifying: Doug Cochran.