

SENATE BILL REPORT

SB 6011

As Reported by Senate Committee On:
State Government, Tribal Relations & Elections, January 19, 2018
Ways & Means, February 6, 2018

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

Brief Description: Concerning governmental continuity during emergency periods.

Sponsors: Senators Takko, Zeiger, Pedersen, Conway, McCoy, Hunt, Hobbs, Frockt, Fain, Bailey, Angel, Warnick, Carlyle, Van De Wege, Chase and Kuderer.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 1/12/18, 1/19/18 [DP-WM].

Ways & Means: 1/30/18, 2/06/18 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Requires the Washington Military Department, subject to appropriations, to develop and manage a program to provide information and education to state and local government officials regarding catastrophic incidents and continuity of government planning to assist with statewide development of continuity of government plans.
- Amends the Continuity of Government Act to include time periods and events that occur in the state relating to a catastrophic incident as well as enemy attacks.
- Provides definitions.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Miloscia, Ranking Member; Saldaña and Zeiger.

Staff: Melissa Van Gorkom (786-7491)

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.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6011 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Braun, Ranking Member; Bailey, Billig, Brown, Carlyle, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker, Rivers, Schoesler, Van De Wege, Wagoner and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senator Becker.

Staff: Jed Herman (786-7346)

Background: Emergency Management. 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 to the Governor for helping to develop and manage a program for interagency coordination and prioritization of continuity of operations planning by state agencies. Each state agency must develop a continuity of operations plan that is updated and exercised annually in compliance with the program for interagency coordination of continuity of operation planning.

Continuity of operations planning is 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.

Washington's Continuity of Government Act (COGA). COGA provides direction for the continuity of government and operations in the event of an enemy attack taken against the United States in the State of Washington.

For state government operations, COGA states that if the Governor and all successors of the Office of the Governor are unavailable, then the powers and duties of the Governor must be exercised and discharged by the Speaker of the House, or by the president pro tem of the Senate if the Speaker of the House is unavailable. 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. If the Governor fails to issue the call of the Legislature into session then the Legislature must convene at a place where the Governor has his or her office on the 30th day following the date of the inception of the attack. If the number of legislators available for duty is reduced, then those 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, then the same proportion of those voting is sufficient. If according to the Governor, it becomes impracticable for the Legislature to convene in its usual Olympia location then the Governor may call the Legislature into emergency session in an alternative location.

For local government operations, COGA states that if the enemy attack reduces the number of county commissioners of a county, then those remaining commissioners available for duty have full authority to act on all matters of the Board of County Commissioners. If the

executive head of any city or town is unavailable to fulfill his or her responsibility due to the enemy attack, then those available members of the city or town council or commission must vote one of their counterparts to act as executive head of the city or town. If the attack reduces the number of council or commission members, then those remaining members available for duty have the full power to act by majority vote of those present. If it becomes impossible to conduct affairs of a political subdivision at its usual location then the governing body may meet at an alternative location.

An attack means 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 the State of Washington.

The COGA addresses continuity of government operations as it relates to an enemy attack taking place in Washington, but it does not address events that take place relating to a catastrophic incident.

State of Emergency. A state of emergency is proclaimed by the Governor after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace. The Governor may proclaim a state of emergency in the area affected. The state of emergency is effective upon the Governor's signature and remains in effect until the Governor declares its termination. The Governor must terminate a state of emergency when order has been restored in the area effected.

Summary of Bill (First Substitute): Emergency Management. The Adjutant General is responsible to the Governor for developing and managing a program, subject to appropriations, to provide information and education to state and local government officials regarding catastrophic incidents and continuity of government planning. This program will assist with statewide development of continuity of government plans.

Continuity of government planning is defined as the internal effort of an organization to assure that the capability exists to continue essential functions and services following a catastrophic incident.

COGA. COGA is expanded to include time periods and events that occur in the state relating to a catastrophic incident as well as enemy attacks.

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, public morale, or government functions. However, catastrophic incident shall not include an event resulting from individuals exercising their rights, under the first amendment, of freedom of speech, and of the people peaceably to assemble. The protections of first amendments rights shall be liberally construed.

An attack is redefined to mean any act of aggression taken against the United States causing substantial damage or injury to persons or property in the United States and the state of Washington.

Emergency or disaster means an event or set of circumstances which (1) 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 (2) reaches such a dimension or degree of destructiveness as to warrant the Governor proclaiming a state of emergency.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (First Substitute):

- Excludes an event resulting from individuals exercising their rights, under the first amendment, of freedom of speech, and other people peaceably to assemble from the definition of catastrophic incident.
- Makes the direction to the Military Department for establishing a program to assist state and local governments for continuity of government planning subject to the availability of amounts appropriated for the specific purpose.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 4-10, relating to continuity of government and operations in the event of a catastrophic incident, or enemy attack which take effect only if the people ratify the proposed amendment to Article II, section 42 of the state Constitution in the next general election. However, sections 4-10 are null and void unless ratified by the people.

Staff Summary of Public Testimony on Original Bill (State Government, Tribal Relations & Elections): PRO: Following catastrophic incidents that result in mass casualties, damage, or destruction, it is critical that government services continue. All levels of government must be ready to respond to emergencies, such as earthquakes and tsunamis, but the Constitution and statute currently only address enemy attacks. The state would not be able to use the continuity of government provisions under the current law if there is a large subduction zone earthquake. This bill expands the capability to plan for continuity of government beyond enemy attack.

Persons Testifying (State Government, Tribal Relations & Elections): PRO: Senator Dean Takko, Prime Sponsor; Jason Marquiss, Deputy Director, Washington Military Department, Emergency Management Division.

Persons Signed In To Testify But Not Testifying (State Government, Tribal Relations & Elections): No one.

Staff Summary of Public Testimony on Original Bill (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is needed as I believe the state and local governments are at risk due to natural destruction events, like Cascadia. We need to get continuity of government plans put in place soon so that we can be

better prepared. The Military Department supports this bill. We need planning staff to help local governments prepare.

Persons Testifying (Ways & Means): PRO: Senator Dean Takko, Prime Sponsor; Jason Marquiss, Deputy Director, Emergency Management Division, Washington Military Department.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.