

SENATE BILL REPORT

SSB 5012

As Amended by House, April 17, 2019

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: State Government, Tribal Relations & Elections: 1/25/19, 1/30/19 [DP-WM].

Ways & Means: 2/12/19, 2/18/19 [DPS, DNP].

Floor Activity:

Passed Senate: 3/07/19, 37-11.

Passed House: 4/17/19, 90-8.

Brief Summary of First Substitute Bill

- Requires the Washington Military Department, subject to appropriation, 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.
- Expands the Continuity of Government Act to include time periods and events that occur in the state relating to a catastrophic incident.
- 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; Zeiger, Ranking Member; Bailey, Hawkins and Takko.

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. 5012 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Hunt, Keiser, Liias, Palumbo, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner and Warnick.

Minority Report: Do not pass.

Signed by Senator Hasegawa.

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 for developing and managing a program for interagency coordination and prioritize continuity of operations 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. Washington's Continuity of Government Act (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 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 their office on the thirtieth day following the date of the inception of the attack. If the number of legislators available for duty is reduced, then those remaining legislators 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 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 the executive head of any city or town is unavailable to fulfill their responsibility due to 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 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.

State of Emergency. A state of emergency is proclaimed by the Governor after finding 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 First Substitute Bill: Subject to appropriation, the adjutant general is responsible to the Governor for developing and managing a program 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.

Continuity of Government Act. COGA is amended to include time periods and events that occur in the state relating to a catastrophic incident rather than 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, or government functions. "Attack" is redefined to mean any acts of aggression, rather than warfare, against the United States causing substantial damage or injury to a person or property in the United States and 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.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which 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 (State Government, Tribal Relations & Elections): PRO: Following catastrophic incidents it is critical that government continue to operate. Current law restricts emergency planning to an enemy attack but there are many other catastrophic incidents that may occur. The state needs to be better prepared for incidents like the Cascadia earthquake and have the ability to continue to operate at the state and county level during these emergency events. This bill would allow for the state to be better prepared.

Persons Testifying (State Government, Tribal Relations & Elections): PRO: Senator Dean Takko, Prime Sponsor; Robert Ezelle, 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 (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: When the Cascadia event occurs, we will want to have had the planning in place this bill creates. The public will need and want continued services in the event of a catastrophic incident. With modest investment we can address a large potential risk.

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

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

EFFECT OF HOUSE AMENDMENT(S):

- Excludes from the definition of catastrophic incident an event resulting from individuals exercising their First Amendment rights to freedom of speech and peaceable assembly.
- Makes the bill null and void unless funded in the budget.