
SUBSTITUTE SENATE BILL 5012

State of Washington

66th Legislature

2019 Regular Session

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

READ FIRST TIME 02/20/19.

1 AN ACT Relating to governmental continuity during emergency
2 periods; amending RCW 38.52.010, 38.52.030, 42.14.010, 42.14.020,
3 42.14.030, 42.14.035, 42.14.040, 42.14.050, and 42.14.075; creating a
4 new section; and providing a contingent effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the ability of
7 government to fulfill its constitutional and statutory
8 responsibilities by continuing to conduct essential functions and
9 services during the periods of significant disruption that follow
10 catastrophic incidents requires both continuity of operations
11 planning by individual agencies and continuity of government planning
12 by state and local government. It is the intent of the legislature
13 that all levels and branches of government, both state and local,
14 take appropriate action to cooperatively conduct appropriate planning
15 and preparation for continuity of operations and government to assist
16 in fulfilling these responsibilities.

17 **Sec. 2.** RCW 38.52.010 and 2017 c 312 s 3 are each amended to
18 read as follows:

19 As used in this chapter:

1 (1) "Catastrophic incident" means any natural or human-caused
2 incident, including terrorism and enemy attack, that results in
3 extraordinary levels of mass casualties, damage, or disruption
4 severely affecting the population, infrastructure, environment,
5 economy, or government functions.

6 (2) "Communication plan," as used in RCW 38.52.070, means a
7 section in a local comprehensive emergency management plan that
8 addresses emergency notification of life safety information.

9 ~~((2))~~ (3) "Continuity of government planning" means the
10 internal effort of all levels and branches of government to provide
11 that the capability exists to continue essential functions and
12 services following a catastrophic incident. These efforts include,
13 but are not limited to, providing for: (a) Orderly succession and
14 appropriate changes of leadership whether appointed or elected; (b)
15 filling vacancies; (c) interoperability communications; and (d)
16 processes and procedures to reconvene government following periods of
17 disruption that may be caused by a catastrophic incident. Continuity
18 of government planning is intended to preserve the constitutional and
19 statutory authority of elected officials at the state and local level
20 and provide for the continued performance of essential functions and
21 services by each level and branch of government.

22 (4) "Continuity of operations planning" means the internal effort
23 of an organization to ~~((assure))~~ provide that the capability exists
24 to continue essential functions and services in response to a
25 comprehensive array of potential emergencies or disasters.

26 ~~((3))~~ (5) "Department" means the state military department.

27 ~~((4))~~ (6) "Director" means the adjutant general.

28 ~~((5))~~ (7) "Emergency management" or "comprehensive emergency
29 management" means the preparation for and the carrying out of all
30 emergency functions, other than functions for which the military
31 forces are primarily responsible, to mitigate, prepare for, respond
32 to, and recover from emergencies and disasters, and to aid victims
33 suffering from injury or damage, resulting from disasters caused by
34 all hazards, whether natural, technological, or human caused, and to
35 provide support for search and rescue operations for persons and
36 property in distress. However, "emergency management" or
37 "comprehensive emergency management" does not mean preparation for
38 emergency evacuation or relocation of residents in anticipation of
39 nuclear attack.

1 (~~(6)~~) (8) "Emergency or disaster" as used in all sections of
2 this chapter except RCW 38.52.430 (~~(shall)~~) means an event or set of
3 circumstances which: (i) Demands immediate action to preserve public
4 health, protect life, protect public property, or to provide relief
5 to any stricken community overtaken by such occurrences; or (ii)
6 reaches such a dimension or degree of destructiveness as to warrant
7 the governor (~~(declaring)~~) proclaiming a state of emergency pursuant
8 to RCW 43.06.010.

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

13 (~~(7)~~) (9) "Emergency response" as used in RCW 38.52.430 means a
14 public agency's use of emergency services during an emergency or
15 disaster as defined in subsection (~~(6)~~) (8)(b) of this section.

16 (~~(8)~~) (10) "Emergency worker" means any person who is
17 registered with a local emergency management organization or the
18 department and holds an identification card issued by the local
19 emergency management director or the department for the purpose of
20 engaging in authorized emergency management activities or is an
21 employee of the state of Washington or any political subdivision
22 thereof who is called upon to perform emergency management
23 activities.

24 (~~(9)~~) (11) "Executive head" and "executive heads" means the
25 county executive in those charter counties with an elective office of
26 county executive, however designated, and, in the case of other
27 counties, the county legislative authority. In the case of cities and
28 towns, it means the mayor in those cities and towns with mayor-
29 council or commission forms of government, where the mayor is
30 directly elected, and it means the city manager in those cities and
31 towns with council manager forms of government. Cities and towns may
32 also designate an executive head for the purposes of this chapter by
33 ordinance.

34 (~~(10)~~) (12) "Expense of an emergency response" as used in RCW
35 38.52.430 means reasonable costs incurred by a public agency in
36 reasonably making an appropriate emergency response to the incident,
37 but shall only include those costs directly arising from the response
38 to the particular incident. Reasonable costs shall include the costs
39 of providing police, coroner, firefighting, rescue, emergency medical

1 services, or utility response at the scene of the incident, as well
2 as the salaries of the personnel responding to the incident.

3 ~~((11))~~ (13) "Incident command system" means: (a) An all-
4 hazards, on-scene functional management system that establishes
5 common standards in organization, terminology, and procedures;
6 provides a means (unified command) for the establishment of a common
7 set of incident objectives and strategies during multiagency/
8 multijurisdiction operations while maintaining individual agency/
9 jurisdiction authority, responsibility, and accountability; and is a
10 component of the national interagency incident management system; or
11 (b) an equivalent and compatible all-hazards, on-scene functional
12 management system.

13 ~~((12))~~ (14) "Injury" as used in this chapter shall mean and
14 include accidental injuries and/or occupational diseases arising out
15 of emergency management activities.

16 ~~((13))~~ (15) "Life safety information" means information
17 provided to people during a response to a life-threatening emergency
18 or disaster informing them of actions they can take to preserve their
19 safety. Such information may include, but is not limited to,
20 information regarding evacuation, sheltering, sheltering-in-place,
21 facility lockdown, and where to obtain food and water.

22 ~~((14))~~ (16) "Local director" means the director of a local
23 organization of emergency management or emergency services.

24 ~~((15))~~ (17) "Local organization for emergency services or
25 management" means an organization created in accordance with the
26 provisions of this chapter by state or local authority to perform
27 local emergency management functions.

28 ~~((16))~~ (18) "Political subdivision" means any county, city or
29 town.

30 ~~((17))~~ (19) "Public agency" means the state, and a city,
31 county, municipal corporation, district, town, or public authority
32 located, in whole or in part, within this state which provides or may
33 provide firefighting, police, ambulance, medical, or other emergency
34 services.

35 ~~((18))~~ (20) "Radio communications service company" has the
36 meaning ascribed to it in RCW 82.14B.020.

37 ~~((19))~~ (21) "Search and rescue" means the acts of searching
38 for, rescuing, or recovering by means of ground, marine, or air
39 activity any person who becomes lost, injured, or is killed while
40 outdoors or as a result of a natural, technological, or human caused

1 disaster, including instances involving searches for downed aircraft
2 when ground personnel are used. Nothing in this section shall affect
3 appropriate activity by the department of transportation under
4 chapter 47.68 RCW.

5 **Sec. 3.** RCW 38.52.030 and 2018 c 26 s 2 are each amended to read
6 as follows:

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

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

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

38 (4) In accordance with the comprehensive emergency management
39 plans and the programs for the emergency management of this state,

1 the director shall procure supplies and equipment, institute training
2 programs and public information programs, and shall take all other
3 preparatory steps, including the partial or full mobilization of
4 emergency management organizations in advance of actual disaster, to
5 insure the furnishing of adequately trained and equipped forces of
6 emergency management personnel in time of need.

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

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

15 (7) The director, through the state enhanced 911 coordinator,
16 shall coordinate and facilitate implementation and operation of a
17 statewide enhanced 911 emergency communications network.

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

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

1 eligibility for disaster assistance established by the department of
2 social and health services: PROVIDED, HOWEVER, That nothing herein
3 shall be construed in any manner inconsistent with the provisions of
4 Article VIII, section 5 or section 7 of the Washington state
5 Constitution.

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

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

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

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

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

23 (11) The director is responsible to the governor to lead the
24 development and management of a program for interagency coordination
25 and prioritization of continuity of operations planning by state
26 agencies. Each state agency is responsible for developing an
27 organizational continuity of operations plan that is updated and
28 exercised annually in compliance with the program for interagency
29 coordination of continuity of operations planning.

30 (12) The director shall maintain a copy of the continuity of
31 operations plan for election operations for each county that has a
32 plan available.

33 (13) Subject to the availability of amounts appropriated for this
34 specific purpose, the director is responsible to the governor to lead
35 the development and management of a program to provide information
36 and education to state and local government officials regarding
37 catastrophic incidents and continuity of government planning to
38 assist with statewide development of continuity of government plans
39 by all levels and branches of state and local government that address

1 how essential government functions and services will continue to be
2 provided following a catastrophic incident.

3 **Sec. 4.** RCW 42.14.010 and 2012 c 117 s 106 are each amended to
4 read as follows:

5 Unless otherwise clearly required by the context, the following
6 definitions apply:

7 (1) "Unavailable" means either that a vacancy in the office
8 exists or that the lawful incumbent of the office is absent or unable
9 to exercise the powers and discharge the duties of the office
10 following ~~((an attack))~~ a catastrophic incident and a ~~((declaration))~~
11 proclamation of existing emergency by the governor or his or her
12 successor.

13 (2) "Attack" means any acts of ~~((warfare))~~ aggression taken ~~((by~~
14 ~~an enemy of))~~ against the United States causing substantial damage or
15 injury to persons or property in the United States and in the state
16 of Washington.

17 (3) "Catastrophic incident" means any natural or human-caused
18 incident, including terrorism and enemy attack, that results in
19 extraordinary levels of mass casualties, damage, or disruption
20 severely affecting the population, infrastructure, environment,
21 economy, or government functions.

22 (4) "Emergency or disaster" means an event or set of
23 circumstances which: (a) Demands immediate action to preserve public
24 health, protect life, protect public property, or to provide relief
25 to any stricken community overtaken by such occurrences; or (b)
26 reaches such a dimension or degree of destructiveness as to warrant
27 the governor proclaiming a state of emergency pursuant to RCW
28 43.06.010.

29 **Sec. 5.** RCW 42.14.020 and 1963 c 203 s 3 are each amended to
30 read as follows:

31 (1) In the event that all successors to the office of governor as
32 provided by Article 3, section 10, as amended by amendment 6 of the
33 Constitution of the state of Washington are unavailable following
34 ~~((an enemy attack))~~ a catastrophic incident, the powers and duties of
35 the office of governor shall be exercised and discharged by the
36 speaker of the house of representatives.

1 (2) In the event the speaker of the house is unavailable, the
2 powers and duties of the office of governor shall be exercised and
3 discharged by the president pro tem of the senate.

4 (3) In the event that neither the speaker nor the president pro
5 tem is available, the house of representatives and the senate in
6 joint assembly shall elect an emergency interim governor.

7 **Sec. 6.** RCW 42.14.030 and 2012 c 117 s 107 are each amended to
8 read as follows:

9 In the event (~~enemy attack~~) that a catastrophic incident
10 reduces the number of legislators available for duty, then those
11 legislators available for duty shall constitute the legislature and
12 shall have full power to act in separate or joint assembly by
13 majority vote of those present. In the event of (~~an attack~~) a
14 catastrophic incident, (1) quorum requirements for the legislature
15 shall be suspended, and (2) where the affirmative vote of a specified
16 proportion of members for approval of a bill, resolution, or other
17 action would otherwise be required, the same proportion of those
18 voting thereon shall be sufficient. In the event of (~~an attack~~) a
19 catastrophic incident, the governor shall call the legislature into
20 session as soon as practicable, and in any case within thirty days
21 following the inception of the (~~attack~~) catastrophic incident. If
22 the governor fails to issue such call, the legislature shall, on the
23 thirtieth day from the date of inception of the (~~attack~~)
24 catastrophic incident, automatically convene at the place where the
25 governor then has his or her office. Each legislator shall proceed to
26 the place of session as expeditiously as practicable. At such session
27 or at any session in operation at the inception of the (~~attack~~)
28 catastrophic incident, and at any subsequent sessions, limitations on
29 the length of session and on the subjects which may be acted upon
30 shall be suspended.

31 **Sec. 7.** RCW 42.14.035 and 1969 ex.s. c 106 s 1 are each amended
32 to read as follows:

33 Whenever, in the judgment of the governor, it becomes
34 impracticable, due to an emergency resulting from (~~enemy attack or~~
35 ~~natural disaster~~) a catastrophic incident, to convene the
36 legislature in the usual seat of government at Olympia, the governor
37 may call the legislature into emergency session in any location
38 within this or an adjoining state. The first order of business of any

1 legislature so convened shall be the establishment of temporary
2 emergency seats of government for the state. After any emergency
3 relocation, the affairs of state government shall be lawfully
4 conducted at such emergency temporary location or locations for the
5 duration of the emergency.

6 **Sec. 8.** RCW 42.14.040 and 1963 c 203 s 5 are each amended to
7 read as follows:

8 In the event (~~(enemy-attack)~~) that a catastrophic incident
9 reduces the number of county commissioners of any county, then those
10 commissioners available for duty shall have full authority to act in
11 all matters as a board of county commissioners. In the event no
12 county commissioner is available for duty, then those elected county
13 officials, except for the members of the county board of education,
14 as are available for duty shall jointly act as the board of county
15 commissioners and shall possess by majority vote the full authority
16 of the board of county commissioners.

17 **Sec. 9.** RCW 42.14.050 and 1981 c 213 s 8 are each amended to
18 read as follows:

19 In the event that the executive head of any city or town is
20 unavailable by reason of (~~(enemy-attack)~~) a catastrophic incident to
21 exercise the powers and discharge the duties of the office, then
22 those members of the city or town council or commission available for
23 duty shall by majority vote select one of their number to act as the
24 executive head of such city or town. In the event (~~(enemy-attack)~~)
25 that a catastrophic incident reduces the number of city or town
26 councilmembers or commission members, then those members available
27 for duty shall have full power to act by majority vote of those
28 present.

29 **Sec. 10.** RCW 42.14.075 and 1969 ex.s. c 106 s 2 are each amended
30 to read as follows:

31 Whenever, due to a (~~(natural-disaster, an-attack)~~) catastrophic
32 incident, or when such an (~~(attack)~~) event is imminent, it becomes
33 imprudent, inexpedient, or impossible to conduct the affairs of a
34 political subdivision at the regular or usual place or places, the
35 governing body of the political subdivision may meet at any place
36 within or without the territorial limits of the political subdivision
37 on the call of the presiding official or any two members of the

1 governing body. After any emergency relocation, the affairs of
2 political subdivisions shall be lawfully conducted at such emergency
3 temporary location or locations for the duration of the emergency.

4 NEW SECTION. **Sec. 11.** Sections 4 through 10 of this act take
5 effect if the proposed amendment to Article II, section 42 of the
6 state Constitution providing governmental continuity during emergency
7 periods resulting from a catastrophic incident (House Joint
8 Resolution No. 4200 or Senate Joint Resolution No. 8200) is validly
9 submitted to and is approved and ratified by the voters at the next
10 general election. If the proposed amendment is not approved and
11 ratified, sections 4 through 10 of this act are void in their
12 entirety.

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