

# SENATE BILL REPORT

## HB 2135

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As Passed Senate - Amended, February 28, 2024

**Title:** An act relating to including federally recognized tribes as part of the Washington emergency management division emergency worker program.

**Brief Description:** Including federally recognized tribes as part of the Washington emergency management division emergency worker program.

**Sponsors:** Representatives Stearns, Lekanoff, Reed, Ormsby, Street, Orwall, Doglio and Reeves; by request of Military Department.

**Brief History:** Passed House: 2/8/24, 97-0.

**Committee Activity:** State Government & Elections: 2/15/24, 2/20/24 [DP].

**Floor Activity:** Passed Senate - Amended: 2/28/24, 49-0.

### Brief Summary of Bill (As Amended by Senate)

- Expands the Military Department's Emergency Worker Program to include members of federally recognized tribes.

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## SENATE COMMITTEE ON STATE GOVERNMENT & ELECTIONS

**Majority Report:** Do pass.

Signed by Senators Hunt, Chair; Valdez, Vice Chair; Wilson, J., Ranking Member; Dozier, Fortunato, Hasegawa and Kuderer.

**Staff:** Danielle Creech (786-7412)

**Background:** The Military Department, under the direction of the state's Adjutant General, is responsible for administering a comprehensive emergency management program for the state to ensure adequate preparation for disasters, administration of state and federal

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programs providing disaster relief to individuals, and further ensure adequate support for search and rescue operations. Each political subdivision—county, city, or town—of the state must establish or jointly create a local organization for carrying out emergency management functions in accordance with the state comprehensive emergency management plan.

The state's Emergency Management Act (EMA) requires the state to accept liability for damage to property, injury, or death caused by acts done or attempted during an emergency, disaster, search and rescue, training, or an exercise authorized by the Military Department in preparation of such. In certain circumstances the state must indemnify a person who has been appointed and regularly enrolled as an emergency worker while engaged in emergency management duties, or as a member of any agency of the state or political subdivision engaged in emergency management activity, or their dependents, for damage done to their private property or for any judgment against them for acts done in good faith in compliance with the EMA.

The EMA grants immunity from legal liability for acts of covered volunteer emergency workers while engaged in a covered activity. "Covered activity" means providing assistance or transportation during an emergency or disaster or a search and rescue, or participating in a training or exercise in preparation for an emergency or disaster or search and rescue. A "covered volunteer emergency worker" is a volunteer who is registered as an emergency worker with the local emergency management organization or the Military Department. The covered volunteer emergency worker immunity extends to:

- the covered volunteer emergency worker;
- the covered volunteer emergency worker's supervisor and employer;
- any facility or its officers or employees;
- the owner of the property or vehicle where the act or omission may have occurred;
- any local organization that registered the volunteer;
- the state or any state or local government entity; and
- any professional or trade association of covered volunteer emergency workers.

The covered volunteer emergency worker immunity applies only when the covered volunteer emergency worker was engaged in a covered activity within the volunteer emergency worker's assigned duties and under the direction of a local emergency management organization or the Military Department, or under a local law enforcement agency if for a search and rescue. The covered volunteer emergency worker immunity also applies only if the covered volunteer emergency worker's act or omission does not constitute gross negligence or willful or wanton misconduct.

**Summary of Amended Bill:** The definition of emergency worker is expanded to include a person who is registered with a federally recognized Indian tribe whose traditional lands and territories included parts of Washington e, so long as the Military Department receives a tribal government resolution declaring the tribal government's intention to participate in the Emergency Worker Program.

The state's responsibility under the EMA to accept liability for harm caused by acts arising from good faith attempts to comply with the EMA is expanded to include indemnification of members of federally recognized tribes. The immunity provided for acts or omissions of covered volunteer emergency workers while engaged in a covered activity extends to federally recognized tribes whose traditional lands and territories included parts of Washington.

**Appropriation:** None.

**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.

**Staff Summary of Public Testimony:** PRO: A recent review of the emergency management statute revealed that it is silent with respect to tribes. Tribes can mobilize and exchange volunteers and they often do, but they do so without the protections afforded by the Emergency worker program. This simple change extends the applicability of the Emergency Worker Program to tribes. This is particularly important because nearly all local and tribal governments, especially those in rural areas, rely on volunteer workers to provide necessary search capabilities for effective disaster response and recovery.

**Persons Testifying:** PRO: Robert Ezelle, Washington Military Department, Emergency Management Division.

**Persons Signed In To Testify But Not Testifying:** No one.