

CRS Report for Congress

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Washington Emergency Management and Homeland Security Statutory Authorities Summarized

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Summary

The governor and the director of the state of Washington's Emergency Management Division are authorized to carry out state programs, coordinate with local governments and serve as liaison with federal and other state governments. The emergency management council conducts an annual state emergency preparedness assessment. Special accounts have been established in the state treasury for natural disasters; in addition, funds in these accounts may be used for national security preparedness. The statutory code contains provisions related to search and rescue and pipeline safety. If the governor is unable to fulfill the duties of the office, legislative leaders are to assume the role, or legislators may elect an acting governor. The location of the capital may be moved if necessary.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

Entities with Key Responsibilities

Governor: The governor exercises general supervision and control of emergency management activities and is authorized to: make, amend, or rescind orders, rules, regulations; enter into mutual aid agreements with states, territories and Canadian provinces; coordinate interjurisdictional mutual aid agreements among units of local government; and cooperate with FEMA (Wash. Rev. Code §38.52.050). The governor is authorized to use the services, equipment, supplies, and facilities of state departments and agencies, as well as department officers and personnel; “command the service and equipment” of citizens as deemed necessary for a disaster, with citizens commandeered under this authority entitled to benefits and immunities accorded to registered emergency workers (Wash. Rev. Code §38.52.110).

Adjutant General/Director: The adjutant general also serves as director of emergency management (DEM) and is responsible to the governor for carrying out the state emergency management program. The DEM: coordinates activities of all state emergency management organizations; maintains liaison and cooperates with other state emergency management agencies and the federal government; develops and maintains the comprehensive all-hazard emergency plan, which must include an analysis of natural, technological and human-caused hazards; develops procedures to coordinate local resources and state agencies during emergencies; procures supplies and equipment; establishes training and public information programs; mobilizes trained and equipped emergency management personnel; and studies and surveys industries, resources and facilities to determine emergency management capabilities (Wash. Rev. Code §38.52.030).

State military department: The department is responsible for administering the state comprehensive emergency management program (Wash. Rev. Code §38.52.005).

Emergency management council: The council is comprised of 17 members appointed by the governor and includes representatives from cities and counties, fire and police departments, local emergency management agencies, search and rescue teams, emergency medical care units, building inspection agencies, and the private sector. The council advises the governor and director on state and local emergency management issues and conducts an annual assessment of state emergency preparedness, especially in the areas of hazard mitigation, seismic safety improvements, and flood hazard reduction (Wash. Rev. Code §38.52.040). The council is also authorized to advise the director on communications and warning systems and facilities (Wash. Rev. Code §38.52.030 (6)).

State coordinators for radioactive and hazardous waste emergency response programs: The coordinators assess the needs and capabilities of state and local radiological and hazardous waste emergency response teams, coordinate training programs to update skills in mitigation, preparedness, response and recovery, and participate in federal emergency management training programs. (Wash. Rev. Code §38.52.030 (10)).

Political subdivisions: Units of local government are authorized to establish local emergency management organizations or serve as members of joint local organizations for emergency management (Wash. Rev. Code §38.52.070). Political subdivisions may make appropriations for emergency management and may accept equipment, supplies,

material, and funds from the federal government or a person, firm or corporation (Wash. Rev. Code §38.52.100). Each political subdivision's chief law enforcement officer is responsible for local search and rescue efforts. Local emergency management directors must notify DEM of all search and rescue missions, and the local emergency management director must coordinate such operations (Wash. Rev. Code §38.52.400).

Preparedness

Local comprehensive emergency management plans must be submitted to the state director, and officials must "secure" the resultant recommendations. Plans must use the incident command system for multijurisdictional operations (including rescues), but cannot be required to provide for the emergency relocation of residents "in anticipation of nuclear attack" (Wash. Rev. Code §38.52.070, 400).

Actions taken in the state emergency operations center (EOC), administered by DEM, are to be guided during an emergency by the state comprehensive emergency management plan. All "appropriate" state agencies are to be represented in the EOC (Wash. Rev. Code §38.52.030 (3)).

The director and the state coordinator of the enhanced 911 system are to develop, implement, and operate the statewide network (Wash. Rev. Code §38.52.030 (7)).

The state coordinator of search and rescue operations is authorized to coordinate the state resources, services, and facilities required by political subdivisions to support search and rescue operations (Wash. Rev. Code §38.52.030 (8)).

DEM, in consultation with other state agencies, is to assist in developing a model contingency plan for emergency response capabilities and training related to pollution control facilities and hazardous waste management (Wash. Rev. Code §38.52.420).

The DEM, with the concurrence of the governor, may reach agreement with federal officials on an emergency management plan applicable to a federally-owned area (Wash. Rev. Code §38.52.170).

The Chief of the State Patrol, in consultation with state officials, evaluates the preparedness of first responders, assesses the equipment needed to meet emergency management demands associated with pipelines, develop curricula, and administers the incident command system (Wash. Rev. Code §48.48.160).

See also "Entities with Key Responsibilities," — *Director*.

Declaration Procedures

No specific provisions

Types of Assistance

The DEM administers a state program for emergency assistance to victims of natural, technological or human-caused disasters. The program may be integrated into and coordinated with federal assistance plans and programs that aid political subdivisions. The program may include services, equipment, supplies, material, and funds in the form of gifts, grants, or loans (Wash. Rev. Code §38.52.030 (9)).

Search and rescue funds may be expended by the state for compensation and the costs of food, lodging, and transportation (Wash. Rev. Code §38.52.410).

Mutual Aid

The Emergency Management Assistance Compact is codified (Wash. Rev. Code §38.10.010 et seq).

Directors of local emergency management are authorized to develop mutual aid agreements, and the adjutant general is authorized to enter into mutual aid agreements with other states (Wash. Rev. Code §38.52.091).

Funding

The statute created a disaster response account in the state treasury, funds for which may be derived from state or federal appropriations or any lawful source. Funds may be spent only after they are appropriated, and may be used only for the support of state and local government disaster response and recovery efforts, or for national security preparedness activities (Wash. Rev. Code §38.52.105).

DEM is authorized to require political subdivisions to provide matching funds for project uses or activities (Wash. Rev. Code §38.52.160).

The Nisqually earthquake account was created by statute; it is funded from tax revenues, budget transfers, state and federal appropriations, gifts or any lawful source. Money in the account could only be used to support state or local government disaster response and recovery associated with Nisqually earthquake of 2001. During the fiscal years 2003 - 2005 the legislature is authorized to transfer funds from this account to fire suppression and national security preparedness (Wash. Rev. Code §38.52.106).

Hazard Mitigation

See “Entities with Key Responsibilities,” — *Emergency management council*.

Continuity of Government Operations

In the event of an attack that reduces the number of legislators available for duty, those legislators available for duty constitute a quorum. The governor is empowered to call the legislature into session as soon as possible, “in any case” within 30 days after an attack begins. If the governor fails to call the session, on the 30th day the legislature is to automatically convene where governor has his office (Wash. Rev. Code §42.14.030).

Continuity of Government Act: All state officers are to designate between three and seven emergency interim successors and identify their order of succession. Successors are authorized to perform appropriate duties until the governor appoints a successor to fill the vacancy and an election is held. County officers also designate emergency interim successors; the statute establishes oath requirements and compensation provisions (Wash. Rev. Code §38-3-50 (b)-(h)).

The state constitution provides for a line of succession for the governor (Wash. Constitution, Article 3, Section 10).

Continuity of Government During Emergency Periods: The legislature is authorized to enact legislation for the succession of powers and duties of public officers (Wash. Constitution, Art. II, §42). The governor may call the legislature into emergency session in an alternative location if necessary due to enemy attack or natural disaster; the legislature is authorized to establish a temporary emergency seat of government (Wash. Rev. Code §42.14.035). In the event an attack reduces the number of county commissioners available for duty, those available may exercise the full authority of the board (Wash. Rev. Code §42.14.040). Similar authority is extended to city or town councils or commissions if executive heads are unavailable due to enemy attack (Wash. Rev. Code §42.14.050). If the mayor, manager, or chief executive officer of a city is unavailable due to enemy attack, the successor shall be selected in compliance with Continuity of Government Act (Wash. Rev. Code §35A.42.030).

Other

The state coroner or medical examiner is authorized to issue a certificate of presumed death when a person dies as result of a natural disaster, if it is unlikely that the body will be recovered (Wash. Rev. Code §70.58.390).

“No organization for emergency management established under the authority of this chapter shall participate in any form of political activity,” nor can it be used for such purposes (Wash. Rev. Code §38.52.120).

Civil service employees on leave of absence, and on duty with any emergency management agency, retain their status for seniority and retirement (Wash. Rev. Code §38.52.140).

The statute provides exclusive remedies for emergency workers’ injuries or deaths arising from work requirements (Wash. Rev. Code §38.52.190 et seq.).

The statute provides liability protection for the owner of a shelter for any injuries sustained by persons occupying the shelter; liability for property damage, injury, or death of a person (except an emergency worker) and is the obligation of the state (Wash. Rev. Code §38.52.180). Other provisions address liability protection regarding construction equipment or work, architects and engineers, and mine rescue operations (Wash. Rev. Code §38.52.190 - 198).

Key Terms

Table 1. Key Emergency Management and Homeland Security Terms Defined in Washington Statutes, with Citations

Terms	Citations
Attack	Wash. Rev. Code §42.14.010 (2)
Emergency/disaster	Wash. Rev. Code §38.52.010 (6)
Emergency management/comprehensive emergency management	Wash. Rev. Code §38.52.010 (1)
Emergency response	Wash. Rev. Code §38.52.010 (12)
Emergency worker	Wash. Rev. Code §38.52.010 (4)
Executive head	Wash. Rev. Code §38.52.010 (8)
Expense of an emergency response	Wash. Rev. Code §38.52.010 (13)
Incident command system	Wash. Rev. Code §38.52.010 (15)
Local organization for emergency services/management	Wash. Rev. Code §38.52.010 (2)
Search and rescue	Wash. Rev. Code §38.52.010 (7)
Terrorist act	Wash. Rev. Code §70.74.285

For Further Research

The citations noted above and other elements of the state code for Washington may be searched at [<http://www.leg.wa.gov/rcw/index.cfm>].