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**SUBSTITUTE SENATE BILL 5247**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Frockt, Zeiger, Hobbs, Bailey, Rolfes, Hunt, Conway, Das, Honeyford, Keiser, and Mullet; by request of Military Department)

1 AN ACT Relating to addressing catastrophic incidents that are  
2 natural or human-caused emergencies; amending RCW 38.52.010 and  
3 38.52.030; creating new sections; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the  
6 widespread impact of damage, casualties, and displacement of people  
7 resulting from a catastrophic incident makes it one of the most  
8 important topics in emergency management today. A catastrophic  
9 incident can result in tens of thousands of casualties and displaced  
10 people, and significantly disrupt the functioning of our  
11 infrastructure and economy; will almost immediately exceed the  
12 resources normally available to state, tribal, local, and private  
13 sector authorities for response; and will significantly disrupt  
14 governmental operations, schools, and the availability of emergency  
15 services. The characteristics of the precipitating event will  
16 severely aggravate the response strategy and quickly exhaust the  
17 capabilities and resources available in the impacted area, requiring  
18 significant resources from outside the area.

19 (2) The legislature further finds that joint local, state, and  
20 federal agencies must plan and prepare to provide extraordinary  
21 levels of lifesaving, life-sustaining, and other resources necessary

1 to respond to the no notice or short notice hazard represented by a  
2 seismic catastrophic incident. Schools with their large number of  
3 vulnerable children, will need focused additional assistance to plan  
4 for seismic risks.

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

7 As used in this chapter:

8 (1) (a) "Catastrophic incident" means any natural or human-caused  
9 incident, including terrorism and enemy attack, that results in  
10 extraordinary levels of mass casualties, damage, or disruption  
11 severely affecting the population, infrastructure, environment,  
12 economy, or government functions.

13 (b) "Catastrophic incident" does not include an event resulting  
14 from individuals exercising their rights, under the first amendment,  
15 of freedom of speech, and of the people to peaceably assemble.

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

19 ~~((+2))~~ (3) "Continuity of operations planning" means the  
20 internal effort of an organization to assure that the capability  
21 exists to continue essential functions and services in response to a  
22 comprehensive array of potential emergencies or disasters.

23 ~~((+3))~~ (4) "Department" means the state military department.

24 ~~((+4))~~ (5) "Director" means the adjutant general.

25 ~~((+5))~~ (6) "Emergency management" or "comprehensive emergency  
26 management" means the preparation for and the carrying out of all  
27 emergency functions, other than functions for which the military  
28 forces are primarily responsible, to mitigate, prepare for, respond  
29 to, and recover from emergencies and disasters, and to aid victims  
30 suffering from injury or damage, resulting from disasters caused by  
31 all hazards, whether natural, technological, or human-caused, and to  
32 provide support for search and rescue operations for persons and  
33 property in distress. However, "emergency management" or  
34 "comprehensive emergency management" does not mean preparation for  
35 emergency evacuation or relocation of residents in anticipation of  
36 nuclear attack.

37 ~~((+6))~~ (7)(a) "Emergency or disaster" as used in all sections of  
38 this chapter except RCW 38.52.430 shall mean an event or set of  
39 circumstances which: (i) Demands immediate action to preserve public

1 health, protect life, protect public property, or to provide relief  
2 to any stricken community overtaken by such occurrences, or (ii)  
3 reaches such a dimension or degree of destructiveness as to warrant  
4 the governor declaring a state of emergency pursuant to RCW  
5 43.06.010.

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

10 ~~((7))~~ (8) "Emergency response" as used in RCW 38.52.430 means a  
11 public agency's use of emergency services during an emergency or  
12 disaster as defined in subsection ~~((6))~~ (7)(b) of this section.

13 ~~((8))~~ (9) "Emergency services building" means any building,  
14 including buildings designed and constructed, for public agencies  
15 used, or designed to be used, or any building a portion of which is  
16 used, or designed to be used, as a fire station, police station,  
17 emergency operations center, Washington state patrol office,  
18 sheriff's office, emergency communication dispatch center, or  
19 emergency shelter.

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

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

37 ~~((10))~~ (12) "Expense of an emergency response" as used in RCW  
38 38.52.430 means reasonable costs incurred by a public agency in  
39 reasonably making an appropriate emergency response to the incident,  
40 but shall only include those costs directly arising from the response

1 to the particular incident. Reasonable costs shall include the costs  
2 of providing police, coroner, firefighting, rescue, emergency medical  
3 services, or utility response at the scene of the incident, as well  
4 as the salaries of the personnel responding to the incident.

5 ~~((11))~~ (13) "Functional recovery standard" means a set of  
6 enforceable building code provisions and regulations that provide  
7 specific design and construction requirements intended to result in a  
8 building for which postearthquake structural and nonstructural  
9 capacity are maintained or can be restored to support the basic  
10 intended functions of the building's preearthquake use and occupancy  
11 within a maximum acceptable time, where the maximum acceptable time  
12 might differ for various uses or occupancies.

13 (14) "Incident command system" means: (a) An all-hazards, on-  
14 scene functional management system that establishes common standards  
15 in organization, terminology, and procedures; provides a means  
16 (unified command) for the establishment of a common set of incident  
17 objectives and strategies during multiagency/multijurisdiction  
18 operations while maintaining individual agency/jurisdiction  
19 authority, responsibility, and accountability; and is a component of  
20 the national interagency incident management system; or (b) an  
21 equivalent and compatible all-hazards, on-scene functional management  
22 system.

23 ~~((12))~~ (15) "Injury" as used in this chapter shall mean and  
24 include accidental injuries and/or occupational diseases arising out  
25 of emergency management activities.

26 ~~((13))~~ (16) "Life safety information" means information  
27 provided to people during a response to a life-threatening emergency  
28 or disaster informing them of actions they can take to preserve their  
29 safety. Such information may include, but is not limited to,  
30 information regarding evacuation, sheltering, sheltering-in-place,  
31 facility lockdown, and where to obtain food and water.

32 ~~((14))~~ (17) "Local director" means the director of a local  
33 organization of emergency management or emergency services.

34 ~~((15))~~ (18) "Local organization for emergency services or  
35 management" means an organization created in accordance with the  
36 provisions of this chapter by state or local authority to perform  
37 local emergency management functions.

38 ~~((16))~~ (19) "Political subdivision" means any county, city or  
39 town.

1       (~~(17)~~) (20) "Public agency" means the state, and a city,  
2 county, municipal corporation, district, town, or public authority  
3 located, in whole or in part, within this state which provides or may  
4 provide firefighting, police, ambulance, medical, or other emergency  
5 services.

6       (~~(18)~~) (21) "Radio communications service company" has the  
7 meaning ascribed to it in RCW 82.14B.020.

8       (~~(19)~~) (22) "Search and rescue" means the acts of searching  
9 for, rescuing, or recovering by means of ground, marine, or air  
10 activity any person who becomes lost, injured, or is killed while  
11 outdoors or as a result of a natural, technological, or human-caused  
12 disaster, including instances involving searches for downed aircraft  
13 when ground personnel are used. Nothing in this section shall affect  
14 appropriate activity by the department of transportation under  
15 chapter 47.68 RCW.

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

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

22       (2) The director, subject to the direction and control of the  
23 governor, shall be responsible to the governor for carrying out the  
24 program for emergency management of this state. The director shall  
25 coordinate the activities of all organizations for emergency  
26 management within the state, and shall maintain liaison with and  
27 cooperate with emergency management agencies and organizations of  
28 other states and of the federal government, and shall have such  
29 additional authority, duties, and responsibilities authorized by this  
30 chapter, as may be prescribed by the governor.

31       (3) The director shall develop and maintain a comprehensive, all-  
32 hazard emergency plan and a catastrophic incident emergency response  
33 plan for the state which shall include an analysis of the natural,  
34 technological, or human-caused hazards which could affect the state  
35 of Washington, and shall include the procedures to be used during  
36 emergencies for coordinating local resources, as necessary, and the  
37 resources of all state agencies, departments, commissions, and  
38 boards. The comprehensive emergency management plan shall direct the  
39 department in times of state emergency to administer and manage the

1 state's emergency operations center. This will include representation  
2 from all appropriate state agencies and be available as a single  
3 point of contact for the authorizing of state resources or actions,  
4 including emergency permits. The comprehensive emergency management  
5 plan must specify the use of the incident command system for  
6 multiagency/multijurisdiction operations. The comprehensive, all-  
7 hazard emergency plan authorized under this subsection may not  
8 include preparation for emergency evacuation or relocation of  
9 residents in anticipation of nuclear attack. This plan shall be known  
10 as the comprehensive emergency management plan.

11 (4) Subject to the availability of amounts appropriated for this  
12 specific purpose, the director may develop guidance, in consultation  
13 with the office of the superintendent of public instruction, that may  
14 be used by local school districts in developing, maintaining,  
15 training, and exercising catastrophic incident plans.

16 (5) In accordance with the comprehensive emergency management  
17 plans and the programs for the emergency management of this state,  
18 the director shall procure supplies and equipment, institute training  
19 programs and public information programs, and shall take all other  
20 preparatory steps, including the partial or full mobilization of  
21 emergency management organizations in advance of actual disaster, to  
22 insure the furnishing of adequately trained and equipped forces of  
23 emergency management personnel in time of need.

24 ~~((+5))~~ (6) The director shall make such studies and surveys of  
25 the industries, resources, and facilities in this state as may be  
26 necessary to ascertain the capabilities of the state for emergency  
27 management, and shall plan for the most efficient emergency use  
28 thereof.

29 ~~((+6))~~ (7) The emergency management council shall advise the  
30 director on all aspects of the communications and warning systems and  
31 facilities operated or controlled under the provisions of this  
32 chapter.

33 ~~((+7))~~ (8) The director, through the state enhanced 911  
34 coordinator, shall coordinate and facilitate implementation and  
35 operation of a statewide enhanced 911 emergency communications  
36 network.

37 ~~((+8))~~ (9) The director shall appoint a state coordinator of  
38 search and rescue operations to coordinate those state resources,  
39 services and facilities (other than those for which the state  
40 director of aeronautics is directly responsible) requested by

1 political subdivisions in support of search and rescue operations,  
2 and on request to maintain liaison with and coordinate the resources,  
3 services, and facilities of political subdivisions when more than one  
4 political subdivision is engaged in joint search and rescue  
5 operations.

6 ~~((9))~~ (10) The director, subject to the direction and control  
7 of the governor, shall prepare and administer a state program for  
8 emergency assistance to individuals within the state who are victims  
9 of a natural, technological, or human-caused disaster, as defined by  
10 RCW 38.52.010~~((6))~~ (7). Such program may be integrated into and  
11 coordinated with disaster assistance plans and programs of the  
12 federal government which provide to the state, or through the state  
13 to any political subdivision thereof, services, equipment, supplies,  
14 materials, or funds by way of gift, grant, or loan for purposes of  
15 assistance to individuals affected by a disaster. Further, such  
16 program may include, but shall not be limited to, grants, loans, or  
17 gifts of services, equipment, supplies, materials, or funds of the  
18 state, or any political subdivision thereof, to individuals who, as a  
19 result of a disaster, are in need of assistance and who meet  
20 standards of eligibility for disaster assistance established by the  
21 department of social and health services: PROVIDED, HOWEVER, That  
22 nothing herein shall be construed in any manner inconsistent with the  
23 provisions of Article VIII, section 5 or section 7 of the Washington  
24 state Constitution.

25 ~~((10))~~ (11) The director shall appoint a state coordinator for  
26 radioactive and hazardous waste emergency response programs. The  
27 coordinator shall consult with the state radiation control officer in  
28 matters relating to radioactive materials. The duties of the state  
29 coordinator for radioactive and hazardous waste emergency response  
30 programs shall include:

31 (a) Assessing the current needs and capabilities of state and  
32 local radioactive and hazardous waste emergency response teams on an  
33 ongoing basis;

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

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

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

3 (~~(11)~~) (12) The director is responsible to the governor to lead  
4 the development and management of a program for interagency  
5 coordination and prioritization of continuity of operations planning  
6 by state agencies. Each state agency is responsible for developing an  
7 organizational continuity of operations plan that is updated and  
8 exercised annually in compliance with the program for interagency  
9 coordination of continuity of operations planning.

10 (~~(12)~~) (13) The director shall maintain a copy of the  
11 continuity of operations plan for election operations for each county  
12 that has a plan available.

13 NEW SECTION. **Sec. 4.** (1) The functional recovery task force is  
14 established to determine criteria and implementation measures  
15 necessary for the adoption of a functional recovery standard for all  
16 emergency services buildings and state-owned buildings.

17 (2) Implementation measures must include:

18 (a) Integration of infrastructure necessary to support functional  
19 recovery including, but not limited to, water availability,  
20 electrical power, transportation, communications, fuel, and other  
21 services;

22 (b) Practical means for implementing a functional recovery  
23 standard, including:

24 (i) Amendments to the state building code;

25 (ii) Estimated costs for compliance;

26 (iii) Practical financial incentives and programs, including  
27 public-private partnerships to cover costs; and

28 (iv) Education and outreach.

29 (3) The work of the functional recovery task force must be  
30 prioritized as follows:

31 (a) Determination of criteria and implementation measures for the  
32 adoption of a functional recovery standard for all new emergency  
33 services buildings and state-owned buildings;

34 (b) Identification of practical means for the seismic  
35 retrofitting of all existing emergency services buildings and state-  
36 owned buildings; and

37 (c) Defining and establishing criteria and implementation  
38 measures for an immediate occupancy standard as considered in the  
39 national institute of standards and technology special publication

1 1224: Research Needs to Support Immediate Occupancy Building  
2 Performance Objective Following Natural Hazard Events.

3 (4) In order to determine criteria for a functional recovery  
4 standard, the task force may examine:

5 (a) The national institute of standards and technology report  
6 referenced in subsection (3)(c) of this section;

7 (b) California Administrative Code, part 1, chapter 4,  
8 administrative regulations for the division of the state architect,  
9 structural safety; and

10 (c) Any other relevant reports, industry and government  
11 standards, best practices, or academic research.

12 (5) The functional recovery task force must consist of:

13 (a) Two members from the house of representatives, with one  
14 member appointed from each of the two major caucuses of the house of  
15 representatives by the speaker of the house of representatives;

16 (b) Two members from the senate, with one member appointed from  
17 each of the two major caucuses of the senate by the president of the  
18 senate; and

19 (c) Appropriate representatives from public and private sector  
20 entities including, but not limited to:

21 (i) The state building code council;

22 (ii) The state military department;

23 (iii) The office of the insurance commissioner;

24 (iv) The department of enterprise services;

25 (v) The department of natural resources;

26 (vi) The department of ecology;

27 (vii) Local governments;

28 (viii) The department of commerce;

29 (ix) The state board for architects;

30 (x) Building officials;

31 (xi) The state fire marshal;

32 (xii) Structural and civil engineers;

33 (xiii) The insurance industry;

34 (xiv) The construction industry;

35 (xv) The Washington geological survey;

36 (xvi) The international code council; and

37 (xvii) First responders.

38 (6) Staff support for the functional recovery task force must be  
39 provided by the senate committee services and the house of  
40 representatives office of program research.

1           (7) Legislative members of the functional recovery task force are  
2 reimbursed for travel expenses in accordance with RCW 44.04.120.  
3 Nonlegislative members are entitled to be reimbursed for travel  
4 expenses if they are elected officials or are participating on behalf  
5 of an employer, governmental entity, or other organization. Any  
6 reimbursement for other nonlegislative members is subject to chapter  
7 43.03 RCW.

8           (8) The expenses of the functional recovery task force must be  
9 paid jointly by the senate and the house of representatives. Task  
10 force expenditures are subject to approval by the senate facilities  
11 and operations committee and the house of representatives executive  
12 rules committee, or their successor committees.

13           (9) The functional recovery task force must provide periodic  
14 progress reports after the completion of each priority listed in this  
15 section to the governor and the appropriate committees of the  
16 legislature. The progress reports must include findings, successes,  
17 challenges, and any recommendations to the legislature to assist the  
18 task force in its work.

19           (10) By December 1, 2021, and in compliance with RCW 43.01.036,  
20 the functional recovery task force must report its final set of  
21 findings and recommendations to the governor and the appropriate  
22 committees of the legislature.

23           (11) This section expires December 31, 2021.

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