
SENATE BILL 5296

State of Washington

60th Legislature

2007 Regular Session

By Senators Kastama, Swecker, Rasmussen, Hobbs, Franklin and Kline

Read first time 01/16/2007. Referred to Committee on Government Operations & Elections.

AN ACT Relating to establishing the emergency management, preparedness, and assistance account; amending RCW 48.18.170 and 48.18.180; adding new sections to chapter 38.52 RCW; creating new sections; and providing an effective date.

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

NEW SECTION. Sec. 1 The legislature finds that recent events, including the 9/11 terrorist acts, the tsunami in southeast Asia, Hurricanes Katrina and Rita in the gulf coast, outbreaks of avian flu, and the earthquake in Pakistan, have demonstrated the need for a coordinated, comprehensive all-hazards disaster plan involving citizens, industry, local governments, and the state. Washington state's topography, geography, location, and strategic and economic interests place the state at particular risk from both natural disasters and man-made disasters. In response, Washington state and its local governments have implemented nationally recognized all-hazards emergency management and disaster response plans. However, recent studies have revealed the lack of a secure funding source for resolving impediments to the ability of state and local programs to integrate and coordinate comprehensive disaster preparedness. In addition, local programs suffer disparities in funding and expertise, leaving troublesome gaps in a well-coordinated statewide all-hazards emergency management system.

Recognizing that all disasters are local disasters, the legislature therefore intends to strengthen state and local emergency response, mitigation, preparation, and coordination by establishing a stable source of funding with the intent that Washington state become the nationally recognized leader in emergency management. The funding will be dedicated to the development and coordination of state and local government and critical industry emergency management programs by supporting joint training exercises, citizen and industry coordination with emergency management efforts, public education, and relationship building among local and state emergency management officials and critical industry representatives.

NEW SECTION. Sec. 2 The emergency management, preparedness, and assistance account is created in the state treasury. All receipts from the surcharge authorized by section 3 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as provided in section 4 of this act.

NEW SECTION. Sec. 3 In order to provide funds for emergency management, preparedness, and assistance, an annual surcharge of two dollars per policy is imposed on every homeowner's, mobile homeowner's, tenant homeowner's, and condominium unit owner's insurance policy, and an annual four-dollar surcharge is imposed on every commercial fire, commercial multiple peril, and business owner's property insurance policy, issued or renewed on or after the effective date of this section. The surcharge must be paid by the policyholder to the insurer. The insurer shall collect the surcharge and remit it to the department of revenue, which shall collect, administer, audit, and enforce the surcharge under chapter 82.32 RCW. The surcharge is not to be considered premiums of the insurer and is not subject to premium taxes, however, nonpayment of the surcharge by the insured may be a valid reason for cancellation of the policy. The surcharge imposed on policyholders under this section is not subject to retaliatory tax provisions. All proceeds of the surcharge must be deposited in the emergency management, preparedness, and assistance account and may not be used to supplant existing local funding.

NEW SECTION. Sec. 4 (1)(a) The department must use twenty percent of the funds appropriated from the emergency management, preparedness, and assistance account for the department's administration of this section, and to: Fund the assessment required by section 5 of this act; fund state agency activities, including military department activities, that develop and coordinate comprehensive emergency management plans; train elected and appointed state officials on state laws, disaster command and response structures, and the roles and responsibilities of officials before, during, and after a disaster; administer periodic joint emergency management training exercises involving the military department and other state agencies; and implement state agency projects that will strengthen emergency response, mitigation, preparation, and coordination.

(b) The department must allocate eighty percent of the funds appropriated from the emergency management, preparedness, and assistance account for grants to regional agencies, local governments, tribal governments, regional incident management teams, critical industry organizations and private organizations to: Develop and coordinate comprehensive emergency management plans; train elected and appointed officials and critical industry representatives on state laws, ordinances, disaster command and response structures, and the roles and responsibilities of officials and critical industry representatives before, during, and after a disaster; administer periodic joint emergency management training exercises; and implement projects that will strengthen emergency response, mitigation, preparation, and coordination. The department shall designate critical industries for the purpose of this section based on its function of providing basic human safety and health needs such as safe food, water and shelter and infrastructure systems necessary for the delivery of these needs.

(2) Projects funded under this section must include, but need not be limited to,

projects that will promote neighborhood level public education on all hazard preparedness and recovery issues, situate all weather radios in public buildings, enhance coordination of public sector and private sector response and relief efforts, and improve the training and operations capabilities of agencies assigned lead or support responsibilities in the state comprehensive all hazard emergency management plan.

(3) Grant funding may also be used as seed money to establish a dedicated, full-time emergency management director in every county that does not have such a director as of the effective date of this section.

(4) The department shall establish criteria and procedures for competitive allocation of these funds by rule. At a minimum, the rules must:

(a) Establish preferential funding for projects and exercises addressing needs and recommendations identified by the department in the assessment conducted under section 5 of this act;

(b) Specify a formula that establishes a base grant allocation and weighted factors for funds to be allocated over the base grant amount for regional agencies, local governments, tribal governments, regional incident management teams, critical industries and private organizations with existing emergency management and preparedness programs that are located in a part of the state or within a critical industry where the risk of exposure to all hazard disasters is deemed by the department to be particularly acute;

(c) Specify match requirements; and

(d) Include requirements that, at a minimum, a local emergency management agency have: A comprehensive emergency management plan or be a member of a joint local organization for emergency management; and a local director who works at least forty hours a week in that capacity, or have designated by ordinance or resolution an emergency management coordinator who works at least fifteen hours a week in that capacity.

(5) No more than five percent of any award made under subsection (1)(b) of this section may be used for administrative expenses.

(6) The distribution formula provided in this section may be adjusted proportionally when necessary to meet any matching requirements imposed as a condition of receiving federal disaster relief assistance or planning funds.

(7) Local governments receiving funds under this section may not use the funds to supplant existing funding.

NEW SECTION. Sec. 5 Beginning in January 2009 and biennially thereafter, the department shall conduct, in conjunction with the emergency management council, a strategic assessment of, and issue a report on, the ability of state, local, and tribal emergency management organizations to effectively provide for all phases of comprehensive emergency management. The assessment must:

(1) Evaluate state, local, and tribal emergency management capabilities and needs;

(2) Evaluate the ability of state, local, and tribal emergency management organizations to provide emergency management mitigation, preparedness, response, and recovery;

(3) Evaluate the effectiveness of the emergency management structure at the state, local, and tribal levels;

(4) Evaluate the effectiveness of the emergency management structure at the state, local and tribal levels to coordinate and integrate critical industries in the all hazard emergency management mitigation, preparedness, response and recovery plans of the state, local and tribal plans;

(4) Provide findings and make recommendations that increase the ability of state, local, and tribal emergency management organizations to meet current and future risks; and

(5) Detail where and for what purpose funds under section 4(1)(b) of this act have been distributed.

NEW SECTION. **Sec. 6** The joint legislative audit and review committee shall study and review the performance of programs implemented under this act. The committee shall examine at least the following factors: The number and type of joint exercises conducted under section 4 of this act; the number of programs receiving grant money and the status of those programs; the coordination of comprehensive emergency management plans between state and local jurisdictions and critical industries; the number of training programs administered; the number of comprehensive emergency management or safety plans created using funds distributed under section 4 of this act; and the number of emergency preparedness officials created and trained with funds distributed under this act. The committee shall provide a final report on this review by December 2009. Funds from the emergency management, preparedness, and assistance account may be provided to the committee for the purposes of conducting the study.

Sec. 7 RCW 48.18.170 and 1947 c 79 s .18.17 are each amended to read as follows:

"Premium" as used in this code means all sums charged, received, or deposited as consideration for an insurance contract or the continuance thereof. Premium does not include the annual surcharge imposed under section 3 of this act. Any assessment, or any "membership," "policy," "survey," "inspection," "service" or similar fee or charge made by the insurer in consideration for an insurance contract is deemed part of the premium.

Sec. 8 RCW 48.18.180 and 1994 c 203 s 2 are each amended to read as follows:

(1) The premium stated in the policy shall be inclusive of all fees, charges, premiums, or other consideration charged for the insurance or for the procurement thereof.

(2) No insurer or its officer, employee, agent, solicitor, or other representative shall charge or receive any fee, compensation, or consideration for insurance which is not included in the premium specified in the policy.

(3) Each violation of this section is a gross misdemeanor.

(4) This section does not apply to a fee paid to a broker by an insured as provided in RCW 48.17.270.

(5) This section does not apply to the surcharge imposed under section 3 of this act.

NEW SECTION. **Sec. 9** Sections 2 through 5 of this act are each added to chapter 38.52 RCW.

NEW SECTION. **Sec. 10** Sections 4 through 6 of this act take effect January 1, 2008.

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