

**REVISIONS TO EMERGENCY  
MANAGEMENT ACT**

**House Bill 5496**  
**Sponsor: Rep. Gary A. Newell**  
**Committee: Commerce**

**Complete to 1-14-02**

**A SUMMARY OF HOUSE BILL 5496 AS INTRODUCED 12-12-01**

The bill would amend the Emergency Management Act in the following ways.

- The governor would be authorized to declare a heightened state of alert when good cause existed to believe that terrorists were in the state or that acts of terrorism might be committed against the state or against a vital resource. Currently, the governor is able under the act to declare a state of disaster or a state of emergency. (See below.)

- The bill would rewrite the provisions regarding immunity for those engaged in disaster relief in order to provide employees, agents, or representatives of the state or a political subdivision of the state, nongovernmental disaster relief force workers, and private or volunteer personnel engaged in disaster relief immunity from tort liability under the Governmental Immunity Act. (See below.)

- Section 15 of the act, which created the Michigan Emergency Management Advisory Council, would be repealed.

- The director of each department of state government, and of any agency required by the state emergency management plan to provide an annex to that plan, would serve as emergency management coordinator for his or her respective department or agency. Currently, the act requires the directors to employ or appoint a coordinator. Instead, the bill would allow each director to appoint or employ a designated representative as emergency management coordinator, provided that the representative acted for and at the direction of the director while acting as coordinator upon the activation of the state emergency operations center or the declaration of a state of disaster or emergency.

- The bill would specify that for the purpose of states of disaster or emergency, the judicial branch of state government would be considered a department of state government and the chief justice would be considered the director of the department.

- The bill would require a public college or university with a combined average population of faculty, students, and staff of 25,000 or more, including its satellite campuses, to appoint an emergency management coordinator. Public colleges and universities with a combined average population of 10,000 or more could (but would not be required to) appoint a coordinator. The act currently requires a county board of commissioners to appoint an emergency management coordinator (although up to three adjoining counties can combine to do this); requires a municipality with a population of 25,000 or more to appoint an emergency management coordinator or appoint the county coordinator to serve in this role; allows a municipality of

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10,000 or more to appoint its own coordinator; and allows a municipality of less than 10,000 to appoint a coordinator who would serve at the direction of the county coordinator. The act further allows a county coordinator to be appointed coordinator for any municipality within the county and allows a municipal coordinator to be appointed county coordinator.

- Currently, a state of disaster or state of emergency stays in effect for 14 days, and then the governor must declare it terminated or seek an extension for a specific number of days, which must be approved by the legislature. The bill would extend the time periods for a state of disaster or emergency to 28 days rather than 14 days. It also would specifically require any extension to be approved by resolution of both houses of the legislature.

- The bill would provide that if the governor had issued a proclamation, executive order, or directive related to a state of disaster or a state of emergency, the director of the Department of State Police could, with the concurrence of the governor, amend the proclamation or directive by adding counties or municipalities or terminating the orders and restrictions as considered necessary.

- The Division of Emergency Management within the Department of State Police would be authorized, in addition to its other powers, to propose and administer statewide mutual aid compacts and agreements.

- The bill would specifically include mitigation, preparedness, response, and recovery among the emergency management activities to be included in emergency management plans and updates of those plans, and would require that emergency management plans and programs include local courts.

- Currently, the act allows municipalities and counties to enter into mutual aid or reciprocal aid agreements or compacts with other counties, municipalities, public agencies, and private sector agencies. The bill would add federally recognized tribal nations. The compacts are limited to the exchange of personnel, equipment, and other resources in times of emergency or disaster. The bill would allow the compacts in cases of other serious threats to public health and safety.

Heightened State of Alert. If a good cause existed to believe that terrorists were in the state or that acts of terrorism could be committed in the state or against a vital resource, the governor could by executive order or proclamation declare a heightened state of alert and subsequently exercise the same authority as for a state of disaster or state of emergency in an effort to safeguard the interests of the state or a vital resource, prevent or respond to acts of terrorism, or to help apprehend terrorists and those acting in concert with them. The governor could use the services, facilities, and resources available under a declared state of emergency or disaster. The heightened state of alert would continue until the governor found that the threat or danger had passed, the state of alert had been dealt with so that the conditions no longer existed, or until it had been in effect for 60 days. After 60 days, the governor would have to terminate the state of alert unless a request for an extension for a specific number of days was approved by resolution of both houses of the legislature.

It would be a misdemeanor for a person to willfully disobey or interfere with the implementation of a rule, order, or directive issued by the governor related to a heightened state of alert. The misdemeanor would be punishable by imprisonment for not more than 90 days or a fine of not more than \$100 or both. The attorney general or a prosecuting attorney could bring a civil action for damages or equitable relief to enforce the provisions of the act and the orders, rules, or regulations made in conformity with the act.

Immunity in Disaster Relief. Under the bill, the state or a political subdivision of the state engaged in disaster relief activity would not be liable for the death of or injury to a person or persons, or for damage to property, as a result of that activity. The employees, agents, or representatives of the state or a political subdivision, and nongovernmental disaster relief force workers or private or volunteer personnel engaged in disaster relief activity would be immune from tort liability under Section 7 of the Governmental Immunity Act. (Generally speaking, that act provides immunity except when the conduct of the officer, employee, member, or volunteer amounts to gross negligence that is the proximate cause of the injury or damage.) The term "disaster relief activity" would include training for or responding to an actual, impending, mock, or practice disaster or emergency.

(This provision would replace the current immunity language in the act, which states that, except in cases of willful misconduct, gross negligence, or bad faith, employees, agents, or representatives of the state or a political subdivision, or any volunteer or auxiliary disaster relief worker or member of any agency engaged in disaster relief activity, complying with or reasonably attempting to comply with the act, or any order, promulgated rule, ordinance enacted by a political subdivisions relating to any precautionary measures, would not be liable for the death of or injury to persons, or for damage to property, as a result of that activity.)

Also, current language in the act applying exclusively to volunteer disaster relief workers or members of agencies engaged in disaster relief activity would be deleted. Instead the bill would say the state, any political subdivision of the state, or the employees, agents, or representatives of the state or a political subdivision would not be liable for personal injury or property damage by any person appointed or acting as a member of disaster relief forces.

MCL 30.403 et al.

Analyst: C. Couch

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