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BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909 •

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House Bill 5263 (Substitute H-1 as reported without amendment)

Sponsor: Representative James M. Middaugh

House Committee: Conservation, Recreation, and Environment

Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 3-20-90

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RATIONALE

Congress recently enacted the Emergency Planning and Community Right-To-Know Act, which requires the designation of state and local entities to coordinate emergency planning, including prevention and management of all disaster and emergency situations. Some feel that, in order to meet the Federal requirements, the State should expand the Emergency Preparedness Act to encompass prevention and response activities, at both the State and local levels, for emergencies and disasters.

CONTENT

The bill would amend the Emergency Preparedness Act to change the name of the Act to the "Emergency Management Act", change the name of the "Emergency Preparedness Plan" to the "Emergency Management Plan", and extend the Act's "disaster" provisions to "emergencies".

The bill also would do all of the following:

- Outline the duties and responsibilities of the Department of State Police's Emergency Management Division.
- Specify local units' duties and responsibilities pertaining to emergency management activities.
- Provide limited immunity from liability to certain parties.
- Revise certain funding requirements under the Act.
- Repeal a section of the Act

pertaining to the primacy of emergency orders in the event of a foreign attack.

The Act requires the Governor to declare a "state of disaster" if a disaster has occurred or a threat of disaster is imminent. The Act would change that requirement to apply if the disaster had occurred or the threat of disaster existed, and would impose a parallel requirement for the declaration of a "state of emergency". The bill would define "disaster" as "an occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from a natural or human-made cause, including, but not limited to, fire, flood, snowstorm, ice storm, tornado, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous materials incident, epidemic, air contamination, blight, drought, infestation, explosion, or hostile military action or paramilitary action, or similar occurrences resulting from terrorist activities, riots, or civil disorders". "Emergency" would mean "any occasion or instance in which the governor determines state assistance is needed to supplement local efforts and capabilities to save lives, protect property and the public health and safety, or to lessen or avert the threat of a catastrophe in any part of the state".

Emergency Management Division

The bill would delete sections of the Act requiring the Director of the Department of

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State Police to maintain a division within the Department to coordinate "predisaster emergency service activities" and to be responsible for the preparation and updating of the "Michigan Emergency Preparedness Plan" and its compatibility with similar Federal, county, and municipal plans.

In place of those provisions, the bill would require the Department of State Police to establish an "Emergency Management Division" to coordinate emergency management activities of the State, counties, municipalities, and the Federal government. The Division would be responsible for preparing and maintaining a "Michigan Emergency Management Plan" that encompassed preparedness, mitigation, response, and recovery activities. The Division could receive available State and Federal emergency management and disaster-related grants and would have to administer and apportion those grants to agencies of the State and local units of government according to established guidelines. The Division would be empowered to do the following:

- Promulgate rules to establish standards and requirements for the appointment, requirements, training, and professional development of emergency management coordinators.
- Promulgate rules to establish requirements and standards for local and interjurisdictional emergency management programs, and periodically review local and interjurisdictional plans.
- Promulgate rules to establish standards and requirements for the emergency training, exercise, and public information programs.
- Survey both public and private industries, resources, and facilities necessary to carry out the Act.
- Prepare, for the Governor's issuance, executive orders, regulations, and proclamations that were necessary or appropriate in coping with emergencies or disasters.
- Provide for at least one State "Emergency Operation Center" to provide for the coordination of emergency response and disaster recovery.
- Provide for the cooperation and coordination of State agencies and departments with Federal and local

entities in emergency management activities.

- Cooperate with the Federal government and any other public or private entity in achieving the Act's purposes and in implementing disaster preparation, mitigation, response, and recovery programs.
- Perform other necessary, appropriate, or incidental activities for the Act's implementation.

Local Units

The Act requires each county board of commissioners to appoint a coordinator of emergency planning and services. The bill would refer to such a person as an "emergency management coordinator", and specifies that he or she would be responsible for "emergency management" rather than "emergency planning and services". In addition, in the absence of an appointed coordinator, the bill would require that the chairperson of the board of commissioners be the coordinator. While the Act allows the county boards of commissioners of up to three adjoining counties to agree upon and appoint a multicounty coordinator, the bill would delete a provision allowing a multicounty coordinator to be "compensated in a manner provided in the appointing resolutions".

The Act allows a municipality with a population of 10,000 or more to appoint a municipal coordinator, who is required to act for and at the direction of the municipality's chief executive. The bill would retain that provision and require a municipality with a population of 25,000 or more either to appoint a municipal emergency management coordinator or appoint the county's coordinator as the municipal emergency management coordinator. Absent an appointment, the municipality's chief executive would be the coordinator. Appointment of a coordinator would have to be made by the municipality's chief executive in a manner provided in its charter. The emergency management coordinator of a municipality with over 25,000 residents would have to act for and at the direction of the municipality's chief executive or the official designated in the municipal charter. The bill would delete a provision under which municipalities with at least 10,000 inhabitants and counties may enter into reciprocal aid agreements or compacts with

other counties or eligible municipalities; the bill provides, instead, that counties and municipalities of any size could enter into mutual aid or reciprocal aid agreements or compacts with other counties, municipalities, and/or public or private agencies. As with the current provision, a compact would be limited to the exchange of personnel, equipment and other resources during times of emergency or disaster, and the arrangement would have to be consistent with the Michigan Emergency Management Plan.

The Act lists a number of actions available to a county or municipality. The bill would grant these only to counties or municipalities that appointed an emergency management coordinator, and would add the following powers to that list:

- Direction and coordination of the development of emergency operations, plans, and programs in accordance with policies and plans established by State and Federal agencies.
- Declaration of a local state of emergency if circumstances indicated that the occurrence or threat of widespread or severe damage, injury, or loss of life or property existed. Directives restricting travel on county or local roads also could be issued.
- Direction and coordination of local multi-agency response to emergencies within the county or municipality.
- Appointment of a local emergency management advisory council.

County or municipal departments or agencies required by the local unit's emergency operations plan to provide an annex to the plan would have to prepare and update the annex to provide for, and coordinate, emergency management activities by the department or agency. The power to declare a local state of emergency would be vested in the chief executive of the county or municipality or the official so designated by charter, and could not be continued or renewed longer than seven days, except with the consent of the county's or municipality's governing body. A proclamation or declaration would have to be filed promptly with the State Police Emergency Management Division, unless circumstances prevented or impeded prompt filing.

Immunity from Liability

The bill specifies that a volunteer disaster relief worker or a member of an agency engaged in disaster relief activities would not be liable for damages resulting from an act or omission that arose out of and in the course of his or her good faith rendering of the disaster relief activity, unless the act or omission were the result of gross negligence or willful misconduct. The immunity provision would not apply, however, to a person who was engaged in disaster relief activity "for remuneration beyond reimbursement for out-of-pocket expenses".

Funding

The Act authorizes the Governor to apply for, accept, and disburse Federal grants after the President declares a major disaster to exist in Michigan. The bill would extend that authorization to cases in which the President declared an emergency to exist in the State. In addition, the Act authorizes the Governor to pledge the State's share for such financial grants and specifies that the State's share cannot "exceed 25% of the actual cost of the expenses and needs" and cannot exceed \$5,000 to one individual or family. The bill would retain the authorization to pledge the State's share, but would delete the specific maximum amounts.

The Act created the Disaster Contingency Fund and mandates that it be maintained by annual appropriations at a level not in excess of \$500,000. The bill would raise the maximum level of the Fund to \$750,000 and require a minimum level of \$30,000. The Act allows the Governor to authorize spending from the Fund to provide State assistance to local units if Federal assistance is unavailable. The bill provides that such assistance could be granted only if the Governor also declared a state of disaster or state of emergency. The maximum level of a State assistance grant to a local unit under the Act is \$20,000 or 10% of the local unit's total annual operating budget for the preceding fiscal year, whichever is less. The bill would increase the maximum grant to \$30,000 or 10%.

The bill would authorize the Director of the Department of State Police, or his or her designee, to promulgate rules to govern the application and eligibility for the use of the

Fund. The bill also specifies that rules promulgated before December 31, 1988, for that purpose would remain in effect until revised or replaced.

Repeal

The bill would repeal a section of the Act that grants a county or municipal ordinance or rule "the full force and effect of law" if there is a foreign attack upon Michigan. The provision that would be repealed also provides that all existing laws, rules, and ordinances that conflict with the Act, or with any order, rule, or directive issued under the Act, are to be suspended during the period that a conflict exists. The section also requires that all action taken under the Act be done with "due consideration to the relevant orders, rules, regulations, actions, recommendation, and request" of Federal authorities and that the actions be consistent, to the extent permitted by law, with those Federal measures.

MCL 30.401 et al.

FISCAL IMPACT

If enacted, the bill would require increased appropriations for the Department of State Police for: 1) maintaining a minimum balance of \$30,000 in the Disaster Contingency Fund (in which there currently are no funds); and 2) increasing the amount of disaster relief available to local jurisdictions from \$20,000 per jurisdiction to \$30,000 per jurisdiction. The total impact of this bill would be a one-time appropriation of \$30,000 and subsequent appropriations depending on the number of jurisdictions that qualified for disaster relief funds in a year. The increased costs to the State would be \$10,000 per jurisdiction per disaster.

ARGUMENTS

Supporting Argument

The bill would bring the State's emergency management programs into conformance with Federal law and increase the scope, efficiency, and funding levels of Michigan's emergency management system.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.