

SENATE BILL NO. 502

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

2403S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 44.010, 44.032, and 44.100, RSMo, and to enact in lieu thereof three new sections relating to emergency powers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 44.010, 44.032, and 44.100, RSMo, are
2 repealed and three new sections enacted in lieu thereof, to be
3 known as sections 44.010, 44.032, and 44.100, to read as
4 follows:

44.010. As used in sections 44.010 to 44.130, the
2 following terms mean:

- 3 (1) "Agency", the state emergency management agency;
- 4 (2) "Bioterrorism", the intentional use of any
5 microorganism, virus, infectious substance, or biological
6 product that may be engineered as a result of biotechnology,
7 or any naturally occurring or bioengineered component of any
8 such microorganism, virus, infectious substance, or
9 biological product, to cause death, disease, or other
10 biological malfunction in a human, an animal, a plant, or
11 another living organism in order to influence the conduct of
12 government or to intimidate or coerce a civilian population;
- 13 (3) "Director", the director of the state emergency
14 management agency;
- 15 (4) "Disasters", disasters which may result from
16 terrorism, including bioterrorism, or from fire, wind,
17 flood, earthquake, or other natural or man-made causes;

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 (5) "Disaster area", a geographic area or areas within
19 the state which have been designated as such by the governor
20 or by resolution of the general assembly, due to the
21 occurrence of a disaster, for the purpose of providing
22 economic or other relief as provided in section 44.032;

23 [(5)] (6) "Economic or geographic area", an area or
24 areas within the state, or partly in this state and adjacent
25 states, comprising political subdivisions grouped together
26 for purposes of administration, organization, control or
27 disaster recovery and rehabilitation in time of emergency;

28 [(6)] (7) "Emergency", any state of emergency declared
29 by proclamation by the governor, or by resolution of the
30 legislature pursuant to sections 44.010 to 44.130 upon the
31 actual occurrence of a natural or man-made disaster of major
32 proportions within this state when the safety and welfare of
33 the inhabitants of this state are jeopardized;

34 [(7)] (8) "Emergency management", government at all
35 levels performing emergency functions, other than functions
36 for which military forces are primarily responsible;

37 [(8)] (9) "Emergency management functions", "emergency
38 management activities" and "emergency management service",
39 those functions required to prepare for and carry out
40 actions to prevent, minimize and repair injury and damage
41 due to disasters, to include emergency management of
42 resources and administration of such economic controls as
43 may be needed to provide for the welfare of the people,
44 either on order of or at the request of the federal
45 government, or in the event the federal government is
46 incapable of administering such control;

47 [(9)] (10) "Emergency resources planning and
48 management", planning for, management and coordination of
49 national, state and local resources;

50 [(10)] (11) "Executive officer of any political
51 subdivision", the county commission or county supervisor or
52 the mayor or other manager of the executive affairs of any
53 city, town, village or fire protection district;

54 [(11)] (12) "Local organization for emergency
55 management", any organization established under this law by
56 any county or by any city, town, or village to perform local
57 emergency management functions;

58 [(12)] (13) "Management", the activities of the
59 emergency management director in the implementation of
60 emergency operations plans during time of emergency;

61 [(13)] (14) "Planning", activities of the state and
62 local emergency management agency in the formulation of
63 emergency management plans to be used in time of emergency;

64 [(14)] (15) "Political subdivision", any county or
65 city, town or village, or any fire district created by law;

66 [(15)] (16) "Urban search and rescue task force", any
67 entity whose primary responsibility is to locate, remove,
68 and provide medical care to persons in collapsed buildings.

44.032. 1. The general assembly recognizes the
2 necessity for anticipating and making advance provisions to
3 care for the unusual and extraordinary burdens imposed on
4 this state and its political subdivisions by disasters or
5 emergencies. To meet such situations, it is the intention
6 of the general assembly to confer emergency powers on the
7 governor, acting through the director, and vesting the
8 governor with adequate power and authority within the
9 limitation of available funds in the Missouri disaster fund
10 to meet any such emergency or disaster.

11 2. There is hereby established a fund to be known as
12 the "Missouri Disaster Fund", to which the general assembly
13 may appropriate funds and from which funds may be

14 appropriated annually to the state emergency management
15 agency. The funds appropriated shall be expended during a
16 state emergency at the direction of the governor and upon
17 the issuance of an emergency declaration which shall set
18 forth the emergency, **or the designation of a disaster area**
19 **as defined in section 44.010**, and shall state that it
20 requires the expenditure of public funds to furnish
21 immediate aid and relief. The director of the state
22 emergency management agency shall administer the fund.

23 3. Expenditures may be made upon direction of the
24 governor for emergency management, as defined in section
25 44.010, or to implement the state disaster plans.
26 Expenditures may also be made to meet the matching
27 requirements of state and federal agencies for any
28 applicable assistance programs.

29 4. Assistance may be provided from the Missouri
30 disaster fund to political subdivisions of this state which
31 have suffered from a disaster to such an extent as to impose
32 a severe financial burden exceeding the ordinary reserve
33 capacity of the subdivision affected. Applications for aid
34 under this section shall be made to the state emergency
35 management agency on such forms as may be prescribed and
36 furnished by the agency, which forms shall require the
37 furnishing of sufficient information to determine
38 eligibility for aid and the extent of the financial burden
39 incurred. The agency may call upon other agencies of the
40 state in evaluating such applications. The director of the
41 state emergency management agency shall review each
42 application for aid under the provisions of this section and
43 recommend its approval or disapproval, in whole or in part,
44 to the governor. If approved, the governor shall determine
45 and certify to the director of the state emergency

46 management agency the amount of aid to be furnished. The
47 director of the state emergency management agency shall
48 thereupon issue his voucher to the commissioner of
49 administration, who shall issue his warrants therefor to the
50 applicant.

51 5. When a disaster or emergency has been proclaimed by
52 the governor or there is a national emergency, the director
53 of the state emergency management agency, upon order of the
54 governor, shall have authority to expend funds for the
55 following:

56 (1) The purposes of sections 44.010 to 44.130 and the
57 responsibilities of the governor and the state emergency
58 management agency as outlined in sections 44.010 to 44.130;

59 (2) Employing, for the duration of the response and
60 recovery to emergency, additional personnel and contracting
61 or otherwise procuring necessary appliances, supplies,
62 equipment, and transport;

63 (3) Performing services for and furnishing materials
64 and supplies to state government agencies, counties, and
65 municipalities with respect to performance of any duties
66 enjoined by law upon such agencies, counties, and
67 municipalities which they are unable to perform because of
68 extreme natural or man-made phenomena, and receiving
69 reimbursement in whole or in part from such agencies,
70 counties, and municipalities able to pay therefor under such
71 terms and conditions as may be agreed upon by the director
72 of the state emergency management agency and any such
73 agency, county, or municipality;

74 (4) Performing services for and furnishing materials
75 to any individual in connection with alleviating hardship
76 and distress growing out of extreme natural or man-made
77 phenomena, and receiving reimbursement in whole or in part

78 from such individual under such terms as may be agreed upon
79 by the director of the state emergency management agency and
80 such individual;

81 (5) Providing services to counties and municipalities
82 with respect to quelling riots and civil disturbances;

83 (6) Repairing and restoring public infrastructure;

84 (7) Furnishing transportation for supplies to
85 alleviate suffering and distress;

86 (8) Furnishing medical services and supplies to
87 prevent the spread of disease and epidemics;

88 (9) Quelling riots and civil disturbances;

89 (10) Training individuals or governmental agencies for
90 the purpose of perfecting the performance of emergency
91 assistance duties as defined in the state disaster plans;

92 (11) Procurement, storage, and transport of special
93 emergency supplies or equipment determined by the director
94 to be necessary to provide rapid response by state
95 government to assist counties and municipalities in
96 impending or actual emergencies;

97 (12) Clearing or removing from publicly or privately
98 owned land or water, debris and wreckage which may threaten
99 public health or safety;

100 (13) Reimbursement to any urban search and rescue task
101 force for any reasonable and necessary expenditures incurred
102 in the course of responding to any declared emergency under
103 this section; and

104 (14) Such other measures as are customarily necessary
105 to furnish adequate relief in cases of catastrophe or
106 disaster.

107 6. The governor may receive such voluntary
108 contributions as may be made from any source to aid in

109 carrying out the purposes of this section and shall credit
110 the same to the Missouri disaster fund.

111 7. All obligations and expenses incurred by the
112 governor in the exercise of the powers and duties vested by
113 the provisions of this section shall be paid by the state
114 treasurer out of available funds in the Missouri disaster
115 fund, and the commissioner of administration shall draw
116 warrants upon the state treasurer for the payment of such
117 sum, or so much thereof as may be required, upon receipt of
118 proper vouchers provided by the director of the state
119 emergency management agency.

120 8. The provisions of this section shall be liberally
121 construed in order to accomplish the purposes of sections
122 44.010 to 44.130 and to permit the governor to cope
123 adequately with any emergency which may arise, and the
124 powers vested in the governor by this section shall be
125 construed as being in addition to all other powers presently
126 vested in the governor and not in derogation of any existing
127 powers.

128 9. Such funds as may be made available by the
129 government of the United States for the purpose of
130 alleviating distress from disasters may be accepted by the
131 state treasurer and shall be credited to the Missouri
132 disaster fund, unless otherwise specifically provided in the
133 act of Congress making such funds available.

134 10. The foregoing provisions of this section
135 notwithstanding, any expenditure or proposed series of
136 expenditures which total in excess of one thousand dollars
137 per project shall be approved by the governor prior to the
138 expenditure.

44.100. 1. The emergency powers of the governor shall
2 be as follows:

3 (1) The provisions of this section shall be operative
4 only during the existence of a state of emergency (referred
5 to in this section as "emergency"). **Any emergency shall be**
6 **limited to the least restrictive geographic area and the**
7 **provisions of this section shall be enforced in any**
8 **emergency the least intrusive, disruptive, or restrictive**
9 **manner to the economic and social activities of the citizens**
10 **of this state.** The existence of an emergency may be
11 proclaimed by the governor or by resolution of the
12 legislature, if the governor in his proclamation, or the
13 legislature in its resolution, finds that a natural or man-
14 made disaster of major proportions has actually occurred
15 within this state, and that the safety and welfare of the
16 inhabitants of this state require an invocation of the
17 provisions of this section;

18 (2) **Any emergency proclaimed by the governor may be**
19 **called for no more than ten days unless extended by**
20 **resolution of the general assembly. Any emergency**
21 **proclaimed by resolution of the general assembly, or any**
22 **extension of an emergency, shall be called for no more than**
23 **thirty days and such resolution shall be by a two-thirds**
24 **majority of the members of both the house of representatives**
25 **and the senate.** Any emergency, whether proclaimed by the
26 governor or by the legislature, shall terminate upon the
27 proclamation thereof by the governor, or the passage by the
28 legislature, of a resolution terminating such emergency;

29 (3) During the period that the state of emergency
30 exists or continues, the governor shall:

31 (a) Enforce and put into operation all plans, rules
32 and regulations relating to disasters and emergency
33 management of resources adopted under this law and to assume

34 direct operational control of all emergency forces and
35 volunteers in the state;

36 (b) Take action and give directions to state and local
37 law enforcement officers and agencies as may be reasonable
38 and necessary for the purpose of securing compliance with
39 the provisions of this law and with the orders, rules and
40 regulations made pursuant thereof;

41 (c) Seize, take or requisition to the extent necessary
42 to bring about the most effective protection of the public:

43 a. Any means of transportation, other than railroads
44 and railroad equipment and fuel, and all fuel necessary for
45 the propulsion thereof;

46 b. Any communication system or part thereof necessary
47 to the prompt and efficient functioning of the emergency
48 management of the state;

49 c. All stocks of fuel;

50 d. Facilities for housing, feeding and hospitalization
51 of persons, including buildings and plants;

52 (d) Control, restrict and regulate by rationing,
53 freezing, use of quotas, prohibitions on shipments, price
54 fixing, allocation or other means the use, sale or
55 distribution of food, feed, fuel, clothing and other
56 commodities, materials, goods or services;

57 (e) Prescribe and direct activities in connection with
58 but not limited to use, conservation, salvage and prevention
59 of waste of materials, services and facilities, including
60 production, transportation, power and communication
61 facilities, training and supply of labor, utilization of
62 industrial plants, health and medical care, nutrition,
63 housing, including the use of existing and private
64 facilities, rehabilitation, education, welfare, child care,

65 recreation, consumer protection and other essential civil
66 needs;

67 (f) Use or distribute all or any of this property
68 among the inhabitants of the state in any area adversely
69 affected by a natural or man-made disaster and to account to
70 the state treasurer for any funds received thereof;

71 (g) Waive or suspend the operation of any statutory
72 requirement or administrative rule regarding the licensing,
73 certification or issuance of permits evidencing
74 professional, mechanical or other skills;

75 (h) Waive or suspend the operation of any statutory
76 requirement or administrative rule prescribing procedures
77 for conducting state business, where strict compliance with
78 such requirements and rules would prevent, hinder, or delay
79 necessary action by the department of health and senior
80 services to respond to a declared emergency or increased
81 health threat to the population;

82 (i) In accordance with rules or regulations, provide
83 that all law enforcement authorities and other emergency
84 response workers and agencies of other states who may be
85 within this state at the request of the governor or pursuant
86 to state or local mutual-aid agreements or compacts shall
87 have the same authority and possess the same powers, duties,
88 rights, privileges and immunities as are possessed by like
89 law enforcement authorities and emergency response workers
90 and agencies of this state;

91 (j) Perform and exercise such other functions, powers
92 and duties as may be necessary to promote and secure the
93 safety and protection of the civilian population;

94 (k) Authorize the director of finance and the director
95 of credit unions to waive or suspend the operation of any
96 statutory requirement or administrative rule applicable to

97 the division of finance, banking, financial services, or the
98 division of credit unions and take action and give direction
99 to banks, credit unions, and financial institutions,
100 including coordinating actions with emergency responders,
101 federal agencies, and state banking and credit union
102 associations as may be reasonable and necessary to preserve
103 the safety and soundness of banks, credit unions, and
104 financial institutions; and facilitate disaster response and
105 recovery efforts to serve essential civil needs and protect
106 the public interest.

107 2. When any property is seized, taken or requisitioned
108 under this section, the circuit court of the county in which
109 the property was taken may on the application of the owner
110 thereof or on the application of the governor in cases where
111 numerous claims may be filed, appoint three disinterested
112 commissioners in the manner provided by section 523.040 to
113 assess the damages which the owners may have sustained by
114 reason of the appropriation thereof. Upon the application
115 the amount due because of the seizure of property shall be
116 determined in the manner provided in chapter 523 for the
117 determination of damages in case of the exercise of the
118 power of eminent domain.

✓