

SECOND REGULAR SESSION

SENATE BILL NO. 1101

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

5695S.011

KRISTINA MARTIN, 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2 repealed and three new sections enacted in lieu thereof, to be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;

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

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;

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 (6) "Economic or geographic area", an area or areas
24 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. (1) As used in this section, the term
2 "rural electric cooperative" means any rural electric
3 cooperative organized or operating under the provisions of
4 chapter 394, any corporation organized on a nonprofit or a
5 cooperative basis as described in subsection 1 of section
6 394.200, or any electrical corporation operating under a
7 cooperative business plan as described in subsection 2 of
8 section 393.110.

9 (2) The general assembly recognizes the necessity for
10 anticipating and making advance provisions to care for the

11 unusual and extraordinary burdens imposed by disasters or
12 emergencies on this state, its political subdivisions, and
13 rural electric cooperatives. To meet such situations, it is
14 the intention of the general assembly to confer emergency
15 powers on the governor, acting through the director, and
16 vesting the governor with adequate power and authority
17 within the limitation of available funds in the Missouri
18 disaster fund to meet any such emergency or disaster.

19 2. There is hereby established a fund to be known as
20 the "Missouri Disaster Fund", to which the general assembly
21 may appropriate funds and from which funds may be
22 appropriated annually to the state emergency management
23 agency. The funds appropriated shall be expended during a
24 state emergency at the direction of the governor and upon
25 the issuance of an emergency declaration which shall set
26 forth the emergency, **or the designation of a disaster area**
27 **as defined in section 44.010**, and shall state that it
28 requires the expenditure of public funds to furnish
29 immediate aid and relief. The director of the state
30 emergency management agency shall administer the fund.

31 3. Expenditures may be made upon direction of the
32 governor for emergency management, as defined in section
33 44.010, or to implement the state disaster plans.
34 Expenditures may also be made to meet the matching
35 requirements of state and federal agencies for any
36 applicable assistance programs.

37 4. Assistance may be provided from the Missouri
38 disaster fund to political subdivisions of this state and
39 rural electric cooperatives that have suffered from a
40 disaster to such an extent as to impose a severe financial
41 burden exceeding the ordinary reserve capacity of the
42 subdivision or rural electric cooperative affected.

43 Applications for aid under this section shall be made to the
44 state emergency management agency on such forms as may be
45 prescribed and furnished by the agency, which forms shall
46 require the furnishing of sufficient information to
47 determine eligibility for aid and the extent of the
48 financial burden incurred. The agency may call upon other
49 agencies of the state in evaluating such applications. The
50 director of the state emergency management agency shall
51 review each application for aid under the provisions of this
52 section and recommend its approval or disapproval, in whole
53 or in part, to the governor. If approved, the governor
54 shall determine and certify to the director of the state
55 emergency management agency the amount of aid to be
56 furnished. The director of the state emergency management
57 agency shall thereupon issue the director's voucher to the
58 commissioner of administration, who shall issue the
59 commissioner's warrants therefor to the applicant.

60 5. When a disaster or emergency has been proclaimed by
61 the governor or there is a national emergency, the director
62 of the state emergency management agency, upon order of the
63 governor, shall have authority to expend funds for the
64 following:

65 (1) The purposes of sections 44.010 to 44.130 and the
66 responsibilities of the governor and the state emergency
67 management agency as outlined in sections 44.010 to 44.130;

68 (2) Employing, for the duration of the response and
69 recovery to emergency, additional personnel and contracting
70 or otherwise procuring necessary appliances, supplies,
71 equipment, and transport;

72 (3) Performing services for and furnishing materials
73 and supplies to state government agencies, counties,
74 municipalities, and rural electric cooperatives with respect

75 to performance of any duties enjoined by law upon such
76 agencies, counties, municipalities, and rural electric
77 cooperatives which they are unable to perform because of
78 extreme natural or man-made phenomena, and receiving
79 reimbursement in whole or in part from such agencies,
80 counties, municipalities, and rural electric cooperatives
81 able to pay therefor under such terms and conditions as may
82 be agreed upon by the director of the state emergency
83 management agency and any such agency, county, municipality,
84 or rural electric cooperative;

85 (4) Performing services for and furnishing materials
86 to any individual in connection with alleviating hardship
87 and distress growing out of extreme natural or man-made
88 phenomena, and receiving reimbursement in whole or in part
89 from such individual under such terms as may be agreed upon
90 by the director of the state emergency management agency and
91 such individual;

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

94 (6) Repairing and restoring public infrastructure;

95 (7) Furnishing transportation for supplies to
96 alleviate suffering and distress;

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

99 (9) Quelling riots and civil disturbances;

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

103 (11) Procurement, storage, and transport of special
104 emergency supplies or equipment determined by the director
105 to be necessary to provide rapid response by state

government to assist counties and municipalities in
impending or actual emergencies;

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

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

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

6. The governor may receive such voluntary
contributions as may be made from any source to aid in
carrying out the purposes of this section and shall credit
the same to the Missouri disaster fund.

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

8. The provisions of this section shall be liberally
construed in order to accomplish the purposes of sections
44.010 to 44.130 and to permit the governor to cope
adequately with any emergency which may arise, and the
powers vested in the governor by this section shall be
construed as being in addition to all other powers presently

vested in the governor and not in derogation of any existing powers.

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

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

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

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

(2) **Any emergency proclaimed by the governor may be called for no more than ten days unless extended by a concurrent resolution of the general assembly. Any**

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

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

(e) Prescribe and direct activities in connection with but not limited to use, conservation, salvage and prevention of waste of materials, services and facilities, including production, transportation, power and communication facilities, training and supply of labor, utilization of industrial plants, health and medical care, nutrition, housing, including the use of existing and private facilities, rehabilitation, education, welfare, child care, recreation, consumer protection and other essential civil needs;

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

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

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

(i) In accordance with rules or regulations, provide 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.

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