

SECOND REGULAR SESSION

SENATE BILL NO. 743

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAXWELL.

Read 1st time January 15, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

L1956.02I

AN ACT

To repeal sections 44.010, 44.020, 44.022, 44.024, 44.028, 44.032, 44.080, 44.090, 44.100, 44.110, 44.112 and 44.113, RSMo 1994, relating to the emergency management agency, and to enact in lieu thereof thirteen new sections for the purpose of changing the organizational structure of the agency.

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

Section A. Sections 44.010, 44.020, 44.022, 44.024, 44.028, 44.032, 44.080, 44.090, 44.100, 44.110, 44.112 and 44.113, RSMo 1994, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 44.010, 44.020, 44.022, 44.024, 44.028, 44.032, 44.080, 44.090, 44.100, 44.110, 44.112, 44.113 and 44.125, to read as follows:

44.010. As used in [this law, the term:

(1) "Civil defense" means] **sections 44.010 to 44.130, the following terms mean:**

(1) "Agency", the state emergency management agency;

(2) "Director", the director of the state emergency management agency;

(3) "Disasters", disasters which may result from terrorism, or from fire, wind, flood, earthquake, or other natural or man-made causes;

(4) "Economic or geographic area", an area or areas within the state, or partly in this state and adjacent states, comprising political subdivisions grouped together for purposes of administration, organization, control or disaster recovery and rehabilitation in time of emergency;

(5) "Emergency", any state of emergency declared by proclamation by the governor, or by resolution of the legislature pursuant to sections 44.010 to 44.130 upon

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

the actual occurrence of a natural or man-made disaster of major proportions within this state when the safety and welfare of the inhabitants of this state are jeopardized;

(6) "Emergency management", government at all levels performing emergency functions, other than functions for which military forces are primarily responsible;

[(2) "Civil defense emergency functions", "civil defense functions", "civil defense activities", and "civil defense service" mean] **(7) "Emergency management functions", "emergency management activities" and "emergency management service"**, those functions required to prepare for and carry out actions to prevent, minimize and repair injury and damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, either on order of or at the request of the federal government, or in the event the federal government is incapable of administering such control;

(3) "Disasters" means disasters which may result from enemy attack, sabotage, or other hostile action, or from fire, flood, earthquake, or other natural causes;

(4) "Emergency" means any state of emergency declared by proclamation by the governor, or by resolution of the legislature under sections 44.010 to 44.130, upon the occurrence of an attack upon the United States, or when an attack is anticipated in the immediate future, or upon the actual occurrence of a natural disaster of major proportions within this state when the safety and welfare of the inhabitants of this state are jeopardized;

(5) "Local organization for civil defense" means] (8) "Emergency resources planning and management", planning for, management and coordination of national, state and local resources, including economic controls;

(9) "Executive officer of any political subdivision", the county commission or county supervisor or the mayor or other manager of the executive affairs of any city, town, village or fire protection district;

(10) "Local organization for emergency management", any organization established under this law by any county or by any city, town, or village to perform local [civil defense] **emergency management** functions;

[(6)] (11) "Management", the activities of the emergency management director in the implementation of emergency operations plans during time of emergency;

(12) "Planning", activities of the state and local emergency management agency in the formulation of emergency management plans to be used in time of emergency;

(13) "Political subdivision" [means], any county or city, town or village, or any fire district created by law[;

(7) "Executive officer of any political subdivision" means the county commission or county supervisor or the mayor or other manager of the executive affairs of any city, town, village or fire protection district;

(8) "Emergency resources planning and management" means planning for, management and coordination of national, state and local resources, including economic controls;

(a) "Planning" means activities of the emergency resources planning committee in the formulation of resources management plans to be used in time of emergency;

(b) "Management" means the activities of the emergency resources administrator in the implementation of resources management plans during time of emergency;

(9) "Emergency resources planning committee" means a voluntary committee and a director appointed by the governor to formulate plans for the management of resources in the state of Missouri in time of emergency;

(10) "Emergency resources administrator", hereinafter called administrator, means an assistant and advisor to the governor on emergency resources management and economic stabilization activities under the jurisdiction of the state and its governmental subdivisions;

(11) "Emergency resources administration", hereinafter called administration, means the organization established to assist the administrator in carrying out resources management functions in time of emergency;

(12) "Economic or geographic area" means an area or areas within the state of Missouri, or partly in Missouri and adjacent states, comprising political subdivisions grouped together for purposes of administration, organization, control, or disaster recovery and rehabilitation in time of emergency].

44.020. There is hereby created within the military division of the executive department, office of the adjutant general, the "State Emergency Management Agency", for the general purpose of assisting in coordination of national, state and local activities related to [civil defense and civil defense] emergency functions[, to include an emergency planning staff to coordinate the national, state and local government management of resources and economic controls] **by coordinating response, recovery, planning and mitigation. This agency shall also serve as the statewide coordinator for activities associated with the Nation Flood Insurance Program.**

44.022. 1. The governor shall have general direction and control of the state emergency management agency, and shall be responsible for the carrying out of the provisions of sections 44.010 to 44.130. In the event of disaster beyond local capabilities, [he] **the governor** may assume direct operational control over all or any part of these [civil defense] emergency functions within this state **through the director.**

2. In performing [his] duties [under] **pursuant to** sections 44.010 to 44.130, the governor is authorized to cooperate with the federal government, other states, and private agencies in all matters pertaining to the [civil defense and civil defense] emergency functions of this state and the nation.

3. In performing [his] duties [under] **pursuant to** sections 44.010 to 44.130 and to effect

its policy and purpose, the governor is further authorized and empowered:

(1) To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of sections 44.010 to 44.130 within the limits of the authority conferred upon [him herein] **the governor pursuant to the provisions of sections 44.010 to 44.130**, with due consideration of the policies and plans of the federal government;

(2) To require and direct the cooperation and assistance of agencies and officials of the state, economic and geographic areas, and local political subdivisions to assist in performance of [civil defense and civil defense] emergency functions;

(3) On behalf of this state, to enter into mutual aid arrangements with other states, and to coordinate mutual aid plans between political subdivisions, and economic and geographic areas of this state, and of this state and other states;

(4) To delegate any administrative authority vested in [him under] **the governor pursuant to** sections 44.010 to 44.130, and to provide for the subdelegation of this authority;

(5) [To appoint, in cooperation with local authorities, area coordinators when practicable;

(6) To establish a state emergency resources planning committee and to appoint, on a voluntary basis, the director and members of such state committee from representatives of industry, commerce, labor, agriculture, civic, governmental and professional groups, such committee to formulate a comprehensive plan for management of resources in time of emergency;

(7) To establish a state emergency resources administration, and to appoint an administrator, to implement such emergency resources management plans in time of emergency, as the state committee shall formulate;

(a) Subcommittees, special committees or task groups, within or without the membership of the state committee and/or administration, may be created to serve problems of particular interest to a designated geographic or economic area of the state, or this state and adjoining states;

(b) These committees or groups may prepare emergency resources plans for their areas of interest, to be coordinated with the state plans, and approved by the governor;

(c) Unless prohibited by law, any political subdivision may appropriate funds, or contribute services, personnel and facilities to special committees, subcommittees or task groups organized for the economic or geographic area within which it is situated;

[(8)] **(6)** To cooperate with the president, [the heads of the armed forces, the federal office of civil defense, the office of emergency planning] **the Federal Emergency Management Agency**, executive office of the president, other appropriate federal officers and agencies, and the officers and agencies of other states;

[(9)] **(7)** To create, establish and appoint such volunteer disaster [and emergency resources advisory committees] **or state agency committees or both** as may be needed to assemble and evaluate information which deals with [defense] **emergency** matters.

44.024. [1. The adjutant general shall have the following powers and duties:

- (1) To adopt, amend and repeal rules and regulations governing the procedure and activities of the state emergency management agency;
- (2) To cooperate with civil defense agencies, councils and similar organizations of the United States, other states and local defense organizations;
- (3) To conduct studies and make reports to the governor with recommendations for legislation related to civil defense;
- (4) To appoint committees to aid him in the discharge of his powers and duties;
- (5) To prepare a state disaster plan and a state resources management plan to be approved by the governor;
- (6) To do all acts and things, not inconsistent with law, for the furtherance of civil defense activities;
- (7) To procure supplies and equipment, to institute training and public information programs, to take all other preparatory steps including the partial or full mobilization of civil defense and emergency resources management organizations in advance of actual disaster, and to insure the furnishing of adequately trained and equipped forces of civil defense personnel in time of need;
- (8) To make studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for disaster relief, and to plan for the most efficient emergency use thereof.

2. The adjutant general may employ and fix the compensation of administrative, technical, clerical, stenographic and other employees as duties require, and may make expenditures within the appropriation therefor as may be necessary to carry out the purposes of this law.

3.] The adjutant general, subject to the direction and control of the governor, shall be the executive head of the office of the state emergency management agency[, and shall be responsible to the governor for carrying out the state civil defense and emergency resources management program].

44.028. Whenever the federal government or officer or agency thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for the purpose of [civil defense] **emergency management**, the state acting through the [adjutant general] **agency**, or the political subdivision, through its executive officer with the consent of the governor, may accept the offer and may receive these services, equipment, supplies, materials or funds on behalf of the state or the political subdivision subject to the terms of the offer.

44.032. 1. The general assembly recognizes the necessity for anticipating and making advance provisions to care for the unusual and extraordinary burdens imposed on this state and its political subdivisions by disasters or emergencies. To meet such situations, it is the intention of the general assembly to confer emergency powers on the governor, acting through the director

[of the department of public safety and the adjutant general, to the director of the state emergency management agency], and vesting the governor with adequate power and authority within the limitation of available funds in the Missouri disaster fund to meet any such emergency or disaster.

2. There is hereby established a fund to be known as the "Missouri Disaster Fund", to which the general assembly may appropriate funds and from which funds may be appropriated annually to the state emergency management agency. The funds appropriated shall be expended during a state emergency at the direction of the governor and upon the issuance of an emergency declaration which shall set forth the emergency and shall state that it requires the expenditure of public funds to furnish immediate aid and relief. The director of the state emergency management agency shall administer the fund.

3. Expenditures may be made upon direction of the governor for **[civil defense] emergency management**, as defined in section 44.010, or to implement the state disaster plans. Expenditures may also be made to meet the matching requirements of state and federal agencies for any applicable assistance programs.

4. Assistance may be provided from the Missouri disaster fund to political subdivisions of this state which have suffered from a disaster to such an extent as to impose a severe financial burden exceeding the ordinary reserve capacity of the subdivision affected. Applications for aid under this section shall be made to the state emergency management agency on such forms as may be prescribed and furnished by the agency, which forms shall require the furnishing of sufficient information to determine eligibility for aid and the extent of the financial burden incurred. The agency may call upon other agencies of the state in evaluating such applications. The director of the state emergency management agency shall review each application for aid under the provisions of this section and recommend its approval or disapproval, in whole or in part, to the governor. If [the governor approves, he] **approved, the governor** shall determine and certify to the director of the state emergency management agency the amount of aid to be furnished. The director of the state emergency management agency shall thereupon issue his voucher to the commissioner of administration, who shall issue his warrants therefor to the applicant.

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

(1) The purposes of sections 44.010 to 44.130[, including civil defense functions,] and the responsibilities of the governor and the state emergency management agency as outlined in sections 44.010 to 44.130;

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

(3) Performing services for and furnishing materials and supplies to state government

agencies, counties, and municipalities with respect to performance of any duties enjoined by law upon such agencies, counties, and municipalities which they are unable to perform because of extreme **[climatic] natural or man-made** phenomena, and receiving reimbursement in whole or in part from such agencies, counties, and municipalities able to pay therefor under such terms and conditions as may be agreed upon by the director of the state emergency management agency and any such agency, county, or municipality;

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

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

(6) **[Opening up, repairing, and restoring roads and highways;**

(7) **Repairing and restoring [bridges] public infrastructure;**

[(8)] (7) Furnishing transportation for supplies to alleviate suffering and distress;

[(9) Restoring means of communication;

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

[(11)] (9) Quelling riots and civil disturbances;

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

[(13)] (11) Procurement, storage, and transport of special emergency supplies or equipment determined by the director [of the state emergency management agency] to be necessary to provide rapid response by state government to assist counties and municipalities in impending or actual emergencies;

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

[(15)] (13) 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 **[in him]** 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 **[his]** warrants upon the state treasurer for the payment of such sum, or so much thereof as may

be required, upon receipt [by him] of proper vouchers [duly approved] **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 [him] **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.

44.080. 1. Each political subdivision of this state shall establish a local organization for disaster planning in accordance with the state [survival] **emergency operations** plan and program. The executive officer of the political subdivision shall appoint a coordinator who shall have direct responsibility for the organization, administration and operation of the local [disaster planning for civil defense] **emergency management operations**, subject to the direction and control of the executive officer or governing body. Each local organization for [disaster planning] **emergency management** shall be responsible for the performance of [civil defense] **emergency management** functions within the territorial limits of its political subdivision, and may conduct these functions outside of the territorial limits as may be required pursuant to the provisions of this law.

2. In carrying out the provisions of this law, each political subdivision may:

(1) Appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for [civil defense] **emergency management** purposes; provide for the health and safety of persons[, including emergency assistance to victims of any enemy attack]; the safety of property; and direct and coordinate the development of disaster plans and programs in accordance with the policies and plans of the federal and state [disaster and emergency planning:] **governments; and**

(2) Appoint, provide, or remove rescue teams, auxiliary fire and police personnel and other emergency operations teams, units or personnel who may serve without compensation[;

(3) In the event of enemy attack, waive the provisions of statutes requiring advertisement for bids for the performance of public work or entering into contracts].

44.090. 1. The executive officer of any political subdivision, with the approval of the governor, may enter into mutual-aid arrangements or agreements with other public and private

agencies within and without the state for reciprocal emergency aid. Such arrangements or agreements shall be consistent with the state disaster plan and program **and the provisions of section 70.837, RSMo, and section 320.090, RSMo**. In time of emergency it shall be the duty of each local organization for [civil defense] **emergency management** to render assistance in accordance with the provisions of such mutual-aid arrangements or agreements.

2. The coordinator of each local organization for [civil defense] **emergency management** may assist in negotiation of reciprocal mutual-aid agreements between his organization and other public and private agencies and between the governor and the adjoining states or political subdivisions thereof, and shall carry out arrangements or agreements relating to the local unit.

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"). 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 [an attack upon the United States has occurred, or 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) [When the adjutant general is ordered by the governor to perform a support and assistance mission, it shall be the duty of the individual in charge of the performing unit to report to adjutant general when the mission is accomplished. The adjutant general may then request permission from the governor to release the unit.

(3) Any emergency, whether proclaimed by the governor or by the legislature, shall terminate upon the proclamation thereof by the governor, or the passage by the legislature, of a resolution terminating such emergency.

[(4)] (3) During the period that the state of emergency exists or continues, the governor shall:

(a) Enforce and put into operation all plans, rules and regulations relating to disasters and emergency management of resources adopted under this law and to assume direct operational control of all emergency forces and volunteers in the state;

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

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

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

b. Any [radio, telephone or telegraph] **communication** system or part thereof necessary

to the prompt and efficient functioning of the [civil defense] **emergency management** of the state;

c. All stocks of fuel;

d. Facilities for housing, feeding and hospitalization 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) [Take such other action as may be necessary for the management of resources following an attack;

(g) To use or distribute all or any of this property among the inhabitants of the state in any area adversely affected by [an enemy attack or natural] **a natural or man-made** disaster and to account to the state treasurer for any funds received thereof;

[(h)] (g) To 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;

[(i)] (h) In accordance with rules or regulations, to provide that all law enforcement authorities and other [civil defense] **emergency response** workers and agencies of other states who may be within this state at the request of the governor or pursuant to state or local mutual-aid agreements or compacts shall have the same authority and possess the same powers, duties, rights, privileges and immunities as are possessed by like law enforcement authorities and [civil defense] **emergency response** workers and agencies of this state;

[(j)] (i) To perform and exercise such other functions, powers and duties as may be necessary to promote and secure the safety and protection of the civilian population.

2. When any property is seized, taken or requisitioned under this section, the circuit court of the county in which the property was taken may on the application of the owner thereof or on the application of the governor in cases where numerous claims may be filed, appoint three disinterested commissioners in the manner provided by section 523.040, RSMo, to assess the damages which the owners may have sustained by reason of the appropriation thereof. Upon the application the amount due because of the seizure of property shall be determined in the manner provided in chapter 523, RSMo, for the determination of damages in case of the exercise of the

power of eminent domain.

44.110. 1. In carrying out the emergency powers [under] **pursuant to** the provisions of [this law] **sections 44.010 to 44.130**, the governor and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the state and political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all departments, offices, and agencies are directed to cooperate with and extend these services and facilities to the governor and to the disaster organizations of the state upon request.

2. In any emergency, be it due to [enemy action or] natural **or man-made** disaster, the governor may order the suspension, in whole or in part, of the activities, functions and duties of any administrative agency, officer or employee of the state or of any political subdivision thereof and may direct the personnel of any agency and any officer and employee of the state or any political subdivision thereof to render services and to provide facilities as may be needed for the carrying out of [civil defense] **emergency management** functions within or without this state. In the event of any such order, any law requiring specific performance of civil duties by any officer or employee shall be suspended as long as the officer or employee is engaged in [civil defense] **emergency management** functions.

44.112. It shall be the duty of every organization established pursuant to sections 44.010 to 44.130 and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the governor [or adjutant general under] **pursuant to the** authority of sections 44.010 to 44.130. Each organization shall have available for inspection at its office all orders, rules and regulations made by the governor, or [under his] **pursuant to such** authority.

44.113. No organization for [disaster planning] **emergency management** established [under this law] **pursuant to sections 44.010 to 44.130** shall participate in any form of political activity, nor shall it be used directly or indirectly for political purposes.

44.125. 1. The agency may develop effective citizen involvement to recruit, train and accept the services of volunteers to supplement the programs administered by the agency.

2. Volunteers recruited, trained or accepted by the agency shall comply with applicable agency policy regulations.

3. The agency shall:

(1) Provide staff as deemed necessary for the effective management and development of volunteer programs;

(2) Take such actions as are necessary and appropriate to develop meaningful opportunities for citizen involvement in agency-administered programs;

(3) Develop and provide to all volunteers written rules governing the job descriptions, recruitment, screening, training responsibility, utilization and supervision

of volunteers;

(4) Educate volunteers to ensure that they understand their duties and responsibilities;

(5) Provide a receptive environment for citizen involvement; and

(6) Provide for the recognition of volunteers who have offered exceptional service to the agency.

4. Volunteers shall be deemed unpaid employees and shall be accorded the protection of the legal expense fund and liability provisions.

5. Reimbursement for transportation and other necessary expenses may be furnished to those volunteers whose presence on special assignment is determined to be necessary by the agency. Such expenses shall be reimbursed from the regular appropriations of the agency. Volunteers may use state vehicles in the performance of agency-related duties, subject to those rules and regulations governing use of state vehicles by paid staff.

6. As used in this section, "volunteer" means any person who, of his or her own free will, performs any assigned duties for the agency with no monetary or material compensation.

7. Any person serving as a volunteer may be terminated from service in that capacity by the director.

Bill ✓

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