



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5402/1
SWB:kjf&cde

2019 SENATE BILL 751

January 29, 2020 - Introduced by Senators SCHACHTNER, BEWLEY, CARPENTER, LARSON, RISSER and SHILLING, cosponsored by Representatives BOWEN, ANDERSON, BILLINGS, CROWLEY, DOYLE, EMERSON, FIELDS, HEBL, HESSELBEIN, KOLSTE, NEUBAUER, OHNSTAD, POPE, RIEMER, SARGENT, SHANKLAND, SINICKI, SPREITZER, SUBECK, C. TAYLOR, VINING, VRUWINK and ZAMARRIPA. Referred to Committee on Health and Human Services.

1 **AN ACT to amend** 250.04 (2) (a) and 323.02 (16) (intro.), (a) and (b) 2.; and **to**
2 **create** 20.435 (1) (by) and 323.135 of the statutes; **relating to:** agency
3 authority regarding public health emergencies and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill expands the definition of public health emergencies and the authority of the Department of Health Services to respond to public health emergencies.

Under current law, a public health emergency is defined as the occurrence or imminent threat of an illness or health condition that meets all of the following criteria: 1) is believed to be caused by bioterrorism or a novel or previously controlled or eradicated biological agent; and 2) poses a high probability of either a large number of deaths or serious long-term disabilities among humans or a high probability of widespread exposure to a biological, chemical, or radiological agent that creates a significant risk of substantial future harm to a large number of people. The bill expands the definition to include toxins or other threats to health and further requires that *any*, rather than *all*, of the criteria be met. The bill also eliminates the requirement that the significant risk of substantial future harm to a large number of people be created by a high probability of widespread exposure to a biological, chemical, or radiological agent.

The bill further establishes a public health emergency general appropriation and grants DHS authority to expend these moneys during a declared public health emergency for certain purposes, including to facilitate coordination between and among federal, state, local, and tribal agencies, social services, and public and

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private health care entities that the state health officer determines may be affected by a public health emergency; to make grants, provide for awards, enter into contracts, and conduct supportive investigations pertaining to a public health emergency or potential public health emergency; and to support emergency operations related to the public health emergency, including investigation, education, and eradication. The bill provides that during a public health emergency, DHS possesses all powers necessary to respond to that emergency, including, subject to the approval of the governor, the powers to confidentially investigate the cause and extent of any declared public health emergency and issue orders necessary to protect public health.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.435 (1) (by) of the statutes is created to read:

2 20.435 (1) (by) *Public health emergency general costs.* A sum sufficient to fund
3 the public health emergency fund under s. 323.135.

4 **SECTION 2.** 250.04 (2) (a) of the statutes is amended to read:

5 250.04 (2) (a) The department possesses all powers necessary to fulfill the
6 duties prescribed in the statutes and to bring action in the courts for the enforcement
7 of public health statutes and rules. Notwithstanding s. 227.112, during a public
8 health emergency declared under s. 323.10, the department possesses all powers
9 necessary to respond to that emergency, including, as described under s. 323.135, the
10 powers to expend public health emergency funds and, subject to approval of the
11 governor, to confidentially investigate the cause and extent of any declared public
12 health emergency and issue orders necessary to protect public health.

13 **SECTION 3.** 323.02 (16) (intro.), (a) and (b) 2. of the statutes are amended to
14 read:

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1 323.02 (16) (intro.) “Public health emergency” means the occurrence or
2 imminent threat of an illness or health condition that meets all any of the following
3 criteria:

4 (a) ~~Is believed caused or suspected to be caused by bioterrorism or a novel or~~
5 ~~previously controlled or eradicated a biological agent, toxin, bioterrorism, or other~~
6 ~~threat to health.~~

7 (b) 2. ~~A high probability of widespread exposure to a biological, chemical, or~~
8 ~~radiological agent that creates a significant risk of substantial future harm to a large~~
9 ~~number of people.~~

10 **SECTION 4.** 323.135 of the statutes is created to read:

11 **323.135 Powers of the department of health services during a public**
12 **health emergency. (1)** In this section:

13 (a) “Department” means the department of health services.

14 (b) “State health officer” has the meaning given in s. 250.01 (9).

15 **(2)** Subject to the approval of the governor, the department of health services
16 may confidentially investigate the cause and extent of any declared public health
17 emergency, and notwithstanding s. 227.112, may issue such orders and public health
18 advisories as it determines are necessary to protect public health. Notwithstanding
19 any exceptions contained in s. 146.82 (2), any patient specific information collected
20 by the department shall remain confidential.

21 **(3)** From the appropriation under s. 20.435 (1) (by), the department may,
22 during a declared public health emergency, use public health emergency moneys for
23 any of the following purposes:

