

CHAPTER 22.

CIVIL DEFENSE; ORGANIZATION FOR STATE-WIDE EMERGENCIES.

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22.01 Civil defense. (1) **DECLARATION OF POLICY.** To ensure that the state, its subdivisions and municipalities will be prepared to cope with emergencies resulting from enemy action it is determined and declared to be necessary to confer upon the governor the powers provided by this section, to provide for civil defense organizations at the state and local government levels, to provide for the administration of civil defense programs, and to provide penalties. To this end the existing agencies of government on the state and local levels shall be employed to the fullest extent, in preparing for and coping with such emergencies, under the guidance and direction of the designated civil defense authorities at such levels of government.

(2) **DEFINITIONS.** As used in this section:

(a) The term "enemy action" means any hostile action taken by a foreign power which threatens the security of the state of Wisconsin.

(b) The term "civil defense" means all those activities and measures designed or undertaken: 1. to minimize the effects upon the civilian population caused or which would be caused by enemy action, 2. to deal with the immediate emergency conditions which could be created by such enemy action, and 3. to effectuate emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such enemy action.

(3) **BUREAU OF CIVIL DEFENSE.** There is created in the executive department a bureau of civil defense.

(4) **POWERS AND DUTIES OF THE GOVERNOR.** The governor:

(a) Shall appoint for an indefinite term and fix the compensation of the state director of civil defense, hereinafter called "state director." The governor may appoint the adjutant general as state director.

(b) Shall appoint the members of the civil defense council, other than ex officio members and legislative members, under sub. (6).

(c) Shall review and pass on orders establishing civil defense areas or changing the boundaries thereof under sub. (5).

(d) Shall review and pass on the state plan of civil defense and any modification thereof under sub. (5).

(e) If he determines that an emergency resulting from enemy action exists, may proclaim that a state of emergency exists throughout the state or any part thereof. The period of the state of emergency shall not extend beyond 60 days unless extended by joint resolution of the legislature. A copy of the proclamation shall be filed with the secretary of state. The proclamation may be revoked by the written order of the governor or by the legislature by joint resolution whenever either deems it appropriate to do so.

(f) In case of a state of emergency proclaimed by him, may call the legislature into special session.

(g) May, on behalf of the state, enter into mutual aid agreements with other states.

(h) May, on behalf of the state, accept gifts or grants to the state from any source for purposes of civil defense and may authorize any officer of the state or any county, city, village or town to receive such gifts or grants, whether as services, equipment, supplies, materials or funds, but any such grants of funds from the United States shall be subject to the restrictions established by s. 20.270. If the grants are based upon a matching agreement providing for municipal or county participation, the state may transfer the title to equipment acquired through participation in such agreement to participating municipalities and counties.

(i) Shall employ the bureau of civil defense and its facilities and other resources to cope with emergency problems during the continuance of a state of emergency proclaimed by him and, to that end, may issue such orders and delegate such authority to the state director as are necessary and proper.

(j) Shall determine the responsibilities of the several state agencies in respect to civil

defense and may by order direct such agencies to utilize their personnel, facilities, supplies and equipment to carry out such responsibilities in preparation for and during a state of emergency proclaimed by him.

(m) May, during the continuance of a state of emergency proclaimed by him, require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote civil defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance.

(n) May, during the continuance of a state of emergency proclaimed by him, allocate materials and facilities in such manner, upon such conditions, and to such extent as he deems necessary or appropriate to promote civil defense.

(o) May, during the continuance of a state of emergency proclaimed by him, take, use or destroy private property, real and personal, required for the purpose of civil defense. The taking of such private property pursuant to this provision, whether for temporary or permanent use or for destruction, shall be in the name of the state. An appropriate record shall be made of such action, and such record shall be evidence of a claim against the state. Payment of such claim shall be made pursuant to s. 16.53 (8).

(p) May, during the continuance of a state of emergency proclaimed by him, issue regulations and orders of general applicability as are necessary and proper for the security of persons and property.

(5) POWERS AND DUTIES OF THE STATE DIRECTOR. The state director, without restriction because of enumeration:

(a) Shall organize and direct the bureau of civil defense provided for in sub. (3).

(b) May, by general or special written orders subject to approval by the governor, divide the territory of the state into civil defense areas and modify the boundaries thereof as changed conditions may warrant. Such areas shall be composed of whole counties having substantially similar civil defense problems and shall be classified and designated in accordance with standards promulgated under authority of the Federal Civil Defense Act of 1950, as amended. The purpose of the division of territory into civil defense areas shall be to facilitate the administration of the state program of civil defense.

(c) May employ a deputy state director of civil defense under the classified service, who shall serve as his deputy and principal assistant.

(e) May appoint for each civil defense area an area director of civil defense, under the classified service, on either a full-time or part-time basis, or may request the governor to designate any state employe or official as an acting area director on a part-time basis.

(f) May employ such personnel under the classified service, or may appoint such technical advisors outside the classified service, as he deems necessary to carry out the state program of civil defense.

(g) Shall, subject to approval of the governor, develop and promulgate a state plan of civil defense and necessary modifications thereof, which shall be mandatory on all levels of government within the state, to provide for the security of persons and property during the continuance of a state of emergency proclaimed by the governor.

(h) Shall furnish guidance for the development and co-ordination of civil defense organizations at all levels of government.

(i) Shall prescribe a system of designations for the bureau of civil defense and for county and municipal civil defense organizations.

(j) Shall prescribe and carry out state-wide training programs and exercises to develop civil defense proficiency and furnish guidance for the conduct of similar programs and exercises at the county and municipal levels.

(k) Shall promulgate minimum standards of compliance with the state plan of civil defense for counties and municipalities consistent with population, location and vulnerability.

(l) Shall withhold or recover grants of funds or items of equipment under sub. (17).

(m) Shall publicly disseminate appropriate civil defense information.

(n) May designate and post highways to be civil defense routes, which shall be closed to all but authorized vehicles when required for training programs and exercises, and during the continuance of a state of emergency proclaimed by the governor may prescribe the routes and control of traffic at such times.

(o) Shall make appropriate provision for necessary civil defense communications and for dissemination of warnings of enemy action to the civilian population.

(p) May organize and train state mobile support units and during the continuance of a state of emergency proclaimed by the governor may employ them for the support of any area, county or municipality. Such mobile support units may participate in training programs and exercises both within and outside the area of the state.

(r) Shall serve as the principal assistant to the governor in the direction of civil defense activities.

(s) Shall co-ordinate the civil defense activities as between the several counties.

(6) CIVIL DEFENSE COUNCIL. The governor, the lieutenant governor, the state director, the deputy state director, a recognized civil leader for each civil defense area selected by the governor, one member of each house of the legislature appointed as are standing committees, and 5 heads of civil defense services selected by the director, shall constitute the civil defense council. The civic leaders shall serve at the pleasure of the governor. The terms of legislative members and of heads of civil defense services shall cease when they cease to be legislators or heads of civil defense services, respectively. The governor shall be chairman, and the lieutenant governor shall be vice-chairman, and the state director shall act in their absence. The council shall meet at the call of the chairman and the members shall be reimbursed for their actual and necessary expenditures incurred in the performance of their duties. The council shall advise with and counsel the governor and the state director on ways and means of providing an effective state program of civil defense.

(7) POWERS AND DUTIES OF AREA DIRECTORS. Area directors of civil defense may exercise such powers as may be delegated and shall perform such duties as may be assigned to them by the state director.

(8) PROVISIONS GOVERNING COUNTIES. The county board of each county:

(a) Shall designate a committee of the county board as a county civil defense committee whose chairman shall be the chairman of the county board;

(b) Shall adopt an effective program of civil defense within the county consistent with the state plan of civil defense;

(c) May appropriate funds and levy taxes for the program of civil defense;

(d) Shall appoint a county civil defense director who, subject to the control and direction of the civil defense committee and under general supervision of the county board, shall:

1. Develop and promulgate civil defense plans for the county, consistent with the state plan of civil defense;

2. Co-ordinate and assist in the development of municipal civil defense plans within the county, and integrate such plans with the county plan;

3. Direct the county civil defense program;

4. Direct county-wide civil defense training programs and exercises;

5. Advise the state director of all civil defense planning for the county and render such reports as may be required by the state director;

6. In case of a state of emergency proclaimed by the governor, direct the county civil defense activities and co-ordinate the municipal civil defense activities within the county, subject to the co-ordinating authority of the state director under sub. (5); and

7. Perform such other duties relating to civil defense as may be required by the county board.

(9) PROVISIONS GOVERNING MUNICIPALITIES. The governing body of each city, village and town:

(a) Shall establish and maintain a municipal civil defense organization.

(b) Shall make provision for an effective program of civil defense within the municipality.

(c) May appropriate funds and levy taxes for the program of civil defense.

(d) Shall provide for the appointment of a municipal civil defense director. Unless provided otherwise the municipal civil defense director shall be the mayor, manager, village president or town chairman. Said director, subject to the control and direction of the governing body, shall:

1. Direct the municipal civil defense organization;

2. Develop and promulgate civil defense plans for the municipality, consistent with the state plan of civil defense and which meet minimum standards for compliance under sub. (5);

3. Direct municipal civil defense training programs and exercises;

4. Direct participation of the municipality in such civil defense training programs and exercises as are ordered by the county and state directors;

5. Advise the county director of all civil defense plans for the municipality and render such reports as may be required by the county director;

6. In case of a state of emergency proclaimed by the governor, direct the activities of

the municipal civil defense organization within the municipality, subject to the co-ordinating authority of the county director under sub. (8); and

7. Perform such other duties, relating to civil defense, as may be required by the governing body.

(10) **JOINT ACTION.** The offices of municipal, county and area directors or any 2 thereof may be combined by mutual agreement, and the participating units of government may agree on the allocation of costs. Nothing herein shall prohibit any 2 or more units of government in this state from proceeding under s. 66.30 to establish a joint defense program, select a joint director and provide for the allocation of costs.

(11) **PERSONNEL.** (a) *Political activity.* No civil defense organization established under this section shall participate in any form of political activity or be employed directly or indirectly for any political activity.

(b) *Labor disputes.* No civil defense organization established under this section shall be employed to interfere with the orderly process of a labor dispute.

(c) *Disloyalty.* No person shall be employed or associated in any capacity in any civil defense organization under this section who advocates a change by force or violence in the constitutional form of government of the United States or this state or who has been convicted of or is under indictment or information charging any subversive act against the United States.

(d) *Workmen's compensation coverage.* Employees of municipal and county civil defense units are employees of the municipality or county to which the unit is attached for purposes of workmen's compensation benefits. Employees of the area and state civil defense units are employees of the state for purposes of workmen's compensation benefits. Volunteer civil defense workers are employees of the civil defense unit with whom duly registered in writing for purposes of workman's compensation benefits. A civil defense employe or volunteer who engages in civil defense activities upon order of any echelon in the civil defense organization other than that which carries his workmen's compensation coverage shall be eligible for the same benefits as though employed by the governmental unit employing him. Any employment which is part of a civil defense program including but not restricted because of enumeration, test runs and other activities which have a training objective as well as civil defense activities during an emergency proclaimed by the governor and which grows out of, and is incidental to, such civil defense activity is covered employment. Members of a civil defense unit who are not acting as employes of a private employer during civil defense activities are employes of the civil defense unit for which acting. If no pay agreement exists or if the contract pay is less, pay for workmen's compensation purposes shall be computed at \$2,080 per annum.

(e) *Indemnification of employe.* Civil defense employes as defined in par. (d) shall be indemnified by their sponsor against any tort liability to third persons incurred in the performance of civil defense activities while acting in good faith and in a reasonable manner. Civil defense activities constitute a governmental function.

(f) *State reimbursement.* If the total liability for workmen's compensation benefits under par. (d), indemnification under par. (e) and loss from destruction of equipment under sub. (12), incurred in any calendar year exceeds \$1 per capita of the sponsor's population, the state shall reimburse the sponsor for the excess. Payment shall be made from the appropriation in s. 20.270 (1) on certificate of the state director.

(g) *Pay.* Civil defense employes as such shall receive no pay unless specific agreement for pay is made.

(12) **BEARING OF LOSSES.** Any loss arising from the damage to or destruction of government-owned equipment utilized in any authorized civil defense activity shall be borne by the owner thereof.

(13) **UTILIZATION OF EXISTING SERVICES AND FACILITIES.** In carrying out their functions as herein provided, the state and each county and municipality of the state shall utilize the services, equipment, supplies and facilities of their agencies. All such agencies and the personnel thereof shall co-operate and extend such services, equipment, supplies and facilities as are required of them.

(14) **MUTUAL AID AGREEMENTS.** Any municipality or county, by action of its governing body, may contract with other towns, villages, cities or counties of this state or, with approval of the state director, may contract with other towns, villages, cities or counties of a bordering state for the giving or receiving of services or both in respect to civil defense. Copies of all such agreements shall be filed, within 10 days of their approval, with the state director.

(15) **POWER OF PEACE OFFICERS.** During the continuance of any state of emergency proclaimed by the governor or during any training program or exercises authorized by the state director, any peace officer or traffic officer of the state, or of a county, city,

village or town, when legally engaged in traffic control, escort duty or protective service, may carry out such functions at any point within the state but shall be subject to the direction of the state director through the sheriff of the county in which an assigned function is performed.

(16) RED CROSS NOT AFFECTED. Nothing contained in this section shall limit or in any way affect the responsibility of the American National Red Cross as authorized by the congress of the United States.

(17) AUTHORITY TO WITHHOLD OR RECOVER GRANTS. If the state director finds that any political subdivision of the state has not complied with the statutory requirement that it establish and maintain an operating civil defense organization, he may refuse to approve grants of funds or items of equipment to such political subdivision until it complies. If such political subdivision fails to use funds or items of equipment granted to it through the agency of the state director in accordance with the agreement under which the grant was made, the state director may refuse to make any additional grants to such political subdivision until it has complied with the conditions of the prior grant, and he may start recovery proceedings on the funds and items of equipment which have not been used in accordance with the conditions of the grant.

(19) PENALTIES. Whoever knowingly and wilfully fails to comply with the directives of the civil defense authorities promulgated pursuant to this section during a state of emergency proclaimed by the governor or during any training program or exercises may be fined not more than \$200 or imprisoned not more than 90 days, or both.

22.02 Other emergencies. (1) POWERS AND DUTIES OF THE GOVERNOR. If the governor determines that an emergency growing out of natural or man-made disaster, except from enemy action, exists in any part of the state and that such emergency is of state-wide concern, he may proclaim that a state of emergency exists in such part of the state. The period of the state of emergency shall not extend beyond 30 days unless extended by joint resolution of the legislature. A copy of the proclamation shall be filed with the secretary of state. The proclamation may be revoked by the written order of the governor or by the legislature by joint resolution whenever either deems it appropriate to do so. During the continuance of such state of emergency the governor may employ the bureau of civil defense established under s. 22.01 (3) and its facilities and other resources to cope with the problems of the emergency and, to that end, may issue such orders and delegate such authority to the state director of civil defense as are necessary and proper. In addition, he may determine the responsibilities of the several state agencies in respect to the problems of the emergency and by order direct such agencies to utilize their personnel, facilities and other resources to carry out such responsibilities, subject to restrictions imposed by federal regulation on property donated by the federal government.

(2) POWERS AND DUTIES OF THE STATE DIRECTOR. During the continuance of a state of emergency proclaimed by the governor under sub. (1) the state director of civil defense:

(a) Shall serve as an assistant to the governor in the direction of emergency activities under this section;

(b) Shall co-ordinate the activities of county civil defense directors of counties situated within the area to which the governor's proclamation applies;

(c) May prescribe the routes and control the traffic in the area to which the governor's proclamation applies;

(d) May employ civil defense communication facilities to cope with the problems of the emergency;

(e) May employ mobile support units to cope with the problems of the emergency;

(f) May, in the interests of the public peace, health and safety, take, use or destroy private property, real and personal, situated within the area to which the governor's proclamation applies and required in the performance of his duties, subject to the conditions prescribed in s. 22.01 (5) (q) [22.01 (4) (o)].

(3) PROVISIONS GOVERNING COUNTIES AND MUNICIPALITIES. During the continuance of a state of emergency proclaimed by the governor under sub. (1) the county board of each county situated within the area to which the governor's proclamation applies may employ the county civil defense organization established under s. 22.01 (8) and the facilities and other resources of said organization to cope with the problems of the emergency, and the governing body of each city, village and town situated within said area shall have similar authority with respect to the municipal civil defense organization established under s. 22.01 (9) and the facilities and other resources of said organization. Nothing in this chapter shall be construed to prohibit counties and municipalities from employing their civil defense organizations and the facilities and other resources of said organizations to

cope with the problems of local public emergencies except where restrictions are imposed by federal regulations on property donated by the federal government.

(4) SUPPLEMENTARY PROVISIONS. During the continuance of a state of emergency proclaimed by the governor under sub. (1) the provisions of s. 22.01 (11) to (16), and (19) shall be applicable to operations carried out under authority of this section.

22.03 Preservation of public records. The committee on public records established under s. 16.80 shall establish as promptly as possible a system for the protection and preservation of essential state public records necessary for the continuity of governmental functions in the event of enemy action and for the re-establishment of government after attack. The committee shall:

(1) Determine what records are essential for emergency operation through consultation with all state agencies and with the bureau of civil defense.

(2) Determine what records are essential for post-emergency operations and provide for their protection and preservation.

(3) Establish the manner in which essential records for emergency and post-emergency operations shall be preserved.

(4) Require every state agency to establish and maintain a records preservation program.

(5) Provide for security storage of essential state records.

(6) Provide the several state agencies with copies of the final plan for the protection and preservation of essential public records.

(7) Advise and recommend as to the establishment of records protection and preservation programs for all local governmental agencies.

22.04 Seat of state government. (1) DESIGNATION OF EMERGENCY TEMPORARY LOCATION. Whenever, during the continuance of a state of emergency proclaimed by the governor under authority of s. 22.01, it becomes imprudent, inexpedient or impossible to conduct the affairs of state government at the seat thereof in the city of Madison, Dane county, Wisconsin, the governor shall, as often as the exigencies of the situation require, by proclamation, designate an emergency temporary location for the seat of government at such place within or without this state as he deems advisable under the circumstances, and shall take such action and issue such orders as are necessary for an orderly transition of the affairs of state government to such emergency temporary location. If practicable, the emergency temporary location so designated by the governor shall conform to that provided for in the current civil defense plan authorized by s. 22.01. Such emergency temporary location shall remain as the seat of government until the governor establishes a new location under this section, or until the emergency is declared to be ended in the manner provided by s. 22.01 and the seat of government is returned to its normal location.

(2) EXERCISE OF GOVERNMENTAL AUTHORITY. During such time as the seat of government remains at such temporary location all official acts now or hereafter required by law to be performed at the seat of government by any officer, agency, department or authority of this state, including the convening and meeting of the legislature in regular or special session, shall be as valid and binding when performed at such emergency temporary location as if performed at the normal location of the seat of government.

22.05 Emergency temporary locations of government for counties, towns and municipalities. (1) DESIGNATION OF EMERGENCY TEMPORARY LOCATIONS. Whenever, during the continuance of a state of emergency proclaimed by the governor under s. 22.01, it becomes imprudent, inexpedient or impossible to conduct the affairs of local government at the regular or usual place or places thereof, the governing body of each county, town and municipality of this state may meet at any place within or without the territorial limits of such political subdivision on the call of the presiding officer or his successor, and shall proceed to establish and designate by ordinance, resolution or other manner, alternate or substitute sites or places as the emergency temporary locations of government where all, or any part, of the public business may be transacted and conducted during the emergency situation. Such alternate or substitute site or places may be within or without the territorial limits of such county, town or municipality and may be within or without those of the state. If practicable, they shall be the sites or places designated as the emergency temporary locations of government in the current civil defense plan authorized by s. 22.01.

(2) EXERCISE OF GOVERNMENTAL AUTHORITY. During the period when the public business is being conducted at an emergency temporary location, the governing body and other officers of a county, town or municipality of this state shall have and possess and shall

exercise, at such location, or locations, all of the executive, legislative, administrative and judicial powers and functions conferred upon such body and officers by or under the laws of this state. Such powers and functions except judicial may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with time-consuming procedures and formalities prescribed by law and pertaining thereto. All acts of such body and officers shall be as valid and binding as if performed within the territorial limits of their county, town or municipality.

(3) PRIORITY OF LEGISLATION. The provisions of this section shall control in the event it shall be employed notwithstanding any statutory, charter or ordinance provision to the contrary or in conflict herewith.

22.06 Succession to local offices. The governing body of any county, town or municipality may enact such ordinances and resolutions as may be necessary to provide for the continuity of government in the event of and throughout the duration of a state of emergency resulting from enemy action in the form of an attack. Such ordinances and resolutions shall provide a method by which temporary emergency appointments to public office are made, except as limited by express constitutional provisions, and shall define the scope of the powers and duties which may be exercised, and shall provide for termination of the appointment so made. The provisions of this section shall control in the event it is employed notwithstanding any statutory provision to the contrary or in conflict therewith.