

State of Wisconsin



1995 Senate Bill 419

Date of enactment: **April 19, 1996**

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1995 WISCONSIN ACT 247

AN ACT *to amend* 15.07 (1) (cm), 15.313 (1), 15.315 (1), 20.465 (3) (title), (a) and (g), 21.20, 66.146 (1) (a), 70.11 (23), 87.305 (1) (c) (intro.), 101.143 (3) (a) 5., 102.475 (title) and (1), 132.17, 146.53 (5) (i), chapter 166 (title), 166.01, 166.02 (3) and (4) (intro.), 166.03 (title), 166.03 (1) (a) 1. to 4., 166.03 (1) (b) 2. to 4., 166.03 (2) (a) 1. to 3., 166.03 (2) (b) 1. to 3., 166.03 (3) to (5), 166.03 (7) (a) and (b), 166.03 (8) (a) to (e) and (g), 166.03 (9), (10), (13) and (14), 166.05 (1), 166.06 (1), 166.15 (1) (d), 166.20 (3) (c), 166.22 (1) (c) and 343.055 (1) (b); *to repeal and recreate* 15.947 (1); and *to create* 15.07 (2) (k) of the statutes; **relating to**: changing the name of the division of emergency government in the department of military affairs, changing references to local emergency government agencies and changing the composition and terms of the state emergency response board.

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

SECTION 1. 15.07 (1) (cm) of the statutes, as affected by 1995 Wisconsin Act 27, section 95m, is amended to read:

15.07 (1) (cm) The term of one member of the ethics board shall expire on each May 1. The terms of 3 members of the development finance board appointed under s. 15.155 (1) (a) 6. shall expire on May 1 of every even-numbered year and the terms of the other 3 members appointed under s. 15.155 (1) (a) 6. shall expire on May 1 of every odd-numbered year. The terms of the 3 members of the land and water conservation board appointed under s. 15.135 (4) (b) 2. shall expire on January 1. The term of the member of the land and water conservation board appointed under s. 15.135 (4) (b) 2m. shall expire on May 1 of an even-numbered year. The terms of members of the real estate board shall expire on July 1. The terms of the appraiser members of the real estate appraisers board and the terms of the auctioneer and auction company representative members of the auctioneer

board shall expire on May 1 in an even-numbered year. The terms of the 4 members of the educational technology board appointed under s. 15.105 (26) (a) 1., 3., 6. and 9. shall expire on May 1 in an even-numbered year. The terms of the members of the public intervenor board shall expire as provided in s. 15.345 (4) (b). The terms of 3 members of the gaming board appointed under s. 15.64 shall expire on July 1 of an even-numbered year and the terms of the other 2 members shall expire on July 1 of an odd-numbered year. The terms of 4 of the members of the state emergency response board, except the administrator of the division of emergency management in the department of military affairs, shall expire on May 1 of each year.

SECTION 2. 15.07 (2) (k) of the statutes is created to read:

15.07 (2) (k) The administrator of the division of emergency management in the department of military affairs shall serve as chairperson of the state emergency response board.

SECTION 3. 15.313 (1) of the statutes is amended to read:

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

15.313 (1) (title) ~~DIVISION OF EMERGENCY GOVERNMENT MANAGEMENT~~. There is created in the department of military affairs a division of emergency ~~government~~ management. The administrator of this division shall be nominated by the governor and with the advice and consent of the senate appointed, to serve at the pleasure of the governor.

SECTION 4. 15.315 (1) of the statutes is amended to read:

15.315 (1) STATE EMERGENCY RESPONSE BOARD. There is created a state emergency response board, which is attached to the department of military affairs under s. 15.03. The state emergency response board shall consist of ~~one representative~~ the administrator of the division of emergency management in the department of military affairs, ~~division of emergency government~~, one representative of the subunit of the department of health and family services that administers health-related programs, one representative of the department of commerce, one representative of the department of transportation, one representative of the department of natural resources, one representative of the department of agriculture, trade and consumer protection, one representative each from fire fighting, law enforcement and public or community health services, 2 representatives of industry, one representative of small business, as defined in s. 15.227 (3), 2 representatives who are elected officials or employes of county ~~and~~ or municipal government, one representative of a farm or agricultural organization, one representative of a labor organization and one representative of an environmental organization. The members of the board shall serve ~~at the pleasure of the governor~~ 4-year terms, except that the administrator of the division of emergency management in the department of military affairs shall be a permanent member.

SECTION 5. 15.947 (1) of the statutes, as affected by 1995 Wisconsin Act 27, is repealed and recreated to read:

15.947 (1) COUNCIL ON FIRE SERVICE TRAINING PROGRAMS. There is created in the technical college system board a council on fire service training programs consisting of a representative of the division of emergency management designated by the administrator thereof; a representative of the department of development designated by the secretary of development; a representative of the commissioner of insurance designated by the commissioner; and 4 bona fide members of volunteer fire departments and 2 bona fide members of paid fire departments appointed for staggered 6-year terms.

SECTION 6. 20.465 (3) (title), (a) and (g) of the statutes are amended to read:

20.465 (3) (title) ~~EMERGENCY GOVERNMENT MANAGEMENT SERVICES~~. (a) *General program operations*. The amounts in the schedule for the general program operations of the division of emergency ~~government~~ management including, but not limited to, central administrative support services by the department.

(g) *Program services*. The amounts in the schedule for conferences, training and other services provided by the division of emergency ~~government~~ management and for expenses incurred under s. 166.03 (2) (b) 6. and 7. All moneys received for conferences, training and other services provided by the division of emergency ~~government~~ management shall be credited to this appropriation. All moneys received from assessments and contributions under s. 166.03 (2) (b) 6. and 7. shall be credited to this appropriation.

SECTION 7. 21.20 of the statutes is amended to read:

21.20 Civil service status. All full-time state-paid employes of the department of military affairs shall be under the classified service, except the adjutant general, the executive assistant to the adjutant general, the deputy adjutants general for army and air and the administrator of the division of emergency ~~government~~ management.

SECTION 8. 66.146 (1) (a) of the statutes is amended to read:

66.146 (1) (a) “Public office” means the following positions or their equivalent: city engineer; city purchasing agent; commissioner of building inspection, of city development, of health or of public works; director of administration, of budget and management, of community development agency, of employe relations, of office of telecommunications, or of safety; emergency ~~government~~ management coordinator; employe benefits administrator; executive director of the commission on community relations; municipal port director; commissioner of assessments; director of liaison; city personnel director; executive director of the retirement board; executive director of the city board of election commissioners; city librarian; city labor negotiator; executive secretary of the board of fire and police commissioners; and supervisor of the central electronics board.

SECTION 9. 70.11 (23) of the statutes is amended to read:

70.11 (23) SHELTERS. Any shelter or portion of a structure constructed and used exclusively for the protection of human life and records against nuclear attack and approved as sufficient for such purpose by the local emergency ~~government~~ management authority and the local assessor.

SECTION 10. 87.305 (1) (c) (intro.) of the statutes is amended to read:

87.305 (1) (c) (intro.) The department informs the U.S. army corps of engineers, the department of transportation, the division of emergency ~~government~~ management and the state historical society of its intention to authorize connection of sewer service and a water supply to the railroad depot and the Dousman hotel and occupancy of the hotel and either:

SECTION 11. 101.143 (3) (a) 5. of the statutes is amended to read:

101.143 (3) (a) 5. The owner or operator or the person reports the discharge in a timely manner to the division

of emergency government management in the department of military affairs or to the department of natural resources, according to the requirements under s. 144.76.

SECTION 12. 102.475 (title) and (1) of the statutes are amended to read:

102.475 (title) Death benefit; law enforcement and correctional officers, fire fighters, rescue squad members, national or state guard members and emergency government management personnel. (1) SPECIAL BENEFIT. If the deceased employe is a law enforcement officer, correctional officer, fire fighter, rescue squad member, national guard member or state defense force member on state active duty as described in s. 102.07 (9) or if a deceased person is an employe or volunteer performing emergency government management activities under ch. 166 during a state of emergency or a circumstance described in s. 166.04, who sustained an accidental injury while performing services growing out of and incidental to that employment or volunteer activity so that benefits are payable under s. 102.46 or 102.47 (1), the department shall voucher and pay from the appropriation under s. 20.445 (1) (aa) a sum equal to 75% of the primary death benefit as of the date of death, but not less than \$50,000 to the persons wholly dependent upon the deceased. For purposes of this subsection, dependency shall be determined under ss. 102.49 and 102.51.

SECTION 13. 132.17 of the statutes is amended to read:

132.17 Certain badges; penalty for unauthorized wearing. Any person who shall wilfully wear the insignia, rosette, or badge or any imitation thereof, of the military order of the Loyal Legion of the United States, the Grand Army of the Republic, the United Spanish War Veterans, Veterans of Foreign Wars of the United States, the Military Order of Foreign Wars, the American Legion, the Disabled American Veterans, the Thirty-second Division Veteran Association, the American Veterans of World War II (AMVETS), or of the Benevolent and Protective Order of the Elks of the United States, Knights of Columbus, Odd Fellows, Free Masons, Knights of Pythias, or of any other society, order or organization, operating under the lodge system, of 10 years' standing in this state, or of any duly incorporated fraternal, social, or service organization, or of the division of emergency government management in the department of military affairs or shall wilfully use the same to obtain aid or assistance thereby within this state, or shall wilfully use the name of such society, order or organization, the titles of its officers, or its insignia, unless entitled to use or wear the same under the constitution, bylaws, rules and regulations thereof, shall be imprisoned not more than 30 days or fined not exceeding \$20, or both.

SECTION 14. 146.53 (5) (i) of the statutes is amended to read:

146.53 (5) (i) Provide advice to the adjutant general of the department of military affairs on the emergency

medical aspects of the state plan of emergency government management under s. 166.03 (2) (a) 1. and coordinate emergency activities with the department of military affairs.

SECTION 15. Chapter 166 (title) of the statutes is amended to read:

CHAPTER 166

EMERGENCY GOVERNMENT MANAGEMENT

SECTION 16. 166.01 of the statutes is amended to read:

166.01 Declaration of policy. To prepare the state and its subdivisions to cope with emergencies resulting from enemy action and natural or man-made disasters, it is declared to be necessary to establish an organization for emergency government management, conferring upon the governor and others specified the powers and duties provided by this chapter.

SECTION 17. 166.02 (3) and (4) (intro.) of the statutes are amended to read:

166.02 (3) "Division" means the division of emergency government management.

(4) (intro.) "Emergency government management" includes "civil defense" and means all measures undertaken by or on behalf of the state and its subdivisions:

SECTION 18. 166.03 (title) of the statutes is amended to read:

166.03 (title) Emergency government management.

SECTION 19. 166.03 (1) (a) 1. to 4. of the statutes are amended to read:

166.03 (1) (a) 1. Review orders establishing or altering emergency government management areas.

2. Review state emergency government management plans and modifications thereof.

3. Employ the division of emergency government management during a state of emergency proclaimed by him or her, issue orders and delegate such authority as is deemed necessary to the administrator.

4. Determine responsibilities of state departments and independent agencies in respect to emergency government management and by order direct such departments and agencies in utilizing personnel, facilities, supplies and equipment before and during a state of emergency.

SECTION 20. 166.03 (1) (b) 2. to 4. of the statutes are amended to read:

166.03 (1) (b) 2. On behalf of the state, enter into mutual aid agreements concerning emergency government management with other states.

3. Accept from any source gifts and grants including services for emergency government management purposes and may authorize state, county, town and municipal officers to receive such gifts and grants. When grants require county, town or municipal participation, the state may transfer title to equipment acquired through such

agreement to participating counties, towns and municipalities.

4. During a state of emergency, declare priority of emergency ~~government management~~ contracts over other contracts, allocate materials and facilities in his or her discretion, and take, use and destroy private property for emergency ~~government management~~ purposes. Such taking, use or destruction shall be in the name of the state. Records shall be kept of such action and such records shall be evidence of a claim against the state. Any such claim shall be referred to the claims board under s. 16.007.

SECTION 21. 166.03 (2) (a) 1. to 3. of the statutes are amended to read:

166.03 (2) (a) 1. Subject to approval by the governor, develop and promulgate a state plan of emergency ~~government management~~ for the security of persons and property which shall be mandatory during a state of emergency. In developing the plan, the adjutant general shall seek the advice of the department of health and social services with respect to the emergency medical aspects of the plan.

2. Prescribe and carry out statewide training programs and exercises to develop emergency ~~government management~~ proficiency, disseminate information including warnings of enemy action, serve as the principal assistant to the governor in the direction of emergency ~~government management~~ activities and coordinate emergency ~~government management~~ programs between counties.

3. Furnish guidance and develop and promulgate standards for emergency ~~government management~~ programs for counties, towns and municipalities, and prescribe nomenclature for all levels of emergency ~~government management~~.

SECTION 22. 166.03 (2) (b) 1. to 3. of the statutes are amended to read:

166.03 (2) (b) 1. Divide the state into emergency ~~government management~~ areas composed of whole counties by general or special written orders subject to approval by the governor, and modify the boundaries thereof as changed conditions warrant. Such areas shall be classified and designated in accordance with standards promulgated under the federal civil defense act of 1950, as amended.

2. Appoint a head of emergency ~~government management~~ for each area established in accordance with subd. 1. under the classified service on either a part-time or full-time basis, or may request the governor to designate any state officer or employe as acting area head on a part-time basis.

3. Designate and post highways as emergency ~~government management~~ routes closed to all but authorized vehicles when required for training programs and exercises.

SECTION 23. 166.03 (3) to (5) of the statutes are amended to read:

166.03 (3) **POWERS AND DUTIES OF AREA HEADS.** Area heads of emergency ~~government management~~ may exercise such powers as are delegated and shall perform such duties as are assigned to them by the adjutant general.

(4) **POWERS AND DUTIES OF COUNTIES AND MUNICIPALITIES.** (a) The governing body of each county, town and municipality shall adopt an effective program of emergency ~~government management~~ consistent with the state plan of emergency ~~government management~~ and, except at the county level in counties having a county executive, shall appoint a head of emergency ~~government management~~ services. Each such governing body may appropriate funds and levy taxes for this program.

(b) In counties having a county executive under s. 59.031, the county board shall designate the county executive or confirm his or her appointee as county head of emergency ~~government management~~ services.

(c) Each county board shall designate a committee of the board as a county emergency ~~government management~~ committee whose chairperson shall be a member of the committee designated by the chairperson of the county board. The committee, in counties having a county executive under s. 59.031, shall retain policy-making and rule-making powers in the establishment and development of county emergency ~~government management~~ plans and programs.

(d) During the continuance of a state of emergency proclaimed by the governor the county board of each county situated within the area to which the governor's proclamation applies may employ the county emergency ~~government management~~ organization and the facilities and other resources of the organization to cope with the problems of the emergency, and the governing body of each municipality and town situated within the area shall have similar authority with respect to municipal emergency ~~government management~~ organizations, facilities and resources. Nothing in this chapter prohibits counties and municipalities from employing their emergency ~~government management~~ organizations, facilities and resources to cope with the problems of local public emergencies except where restrictions are imposed by federal regulations on property donated by the federal government.

(5) (title) **POWERS AND DUTIES OF HEAD OF EMERGENCY GOVERNMENT MANAGEMENT SERVICES.** (a) The head of emergency ~~government management~~ services in each county, town and municipality shall for his or her respective county, town or municipality, develop and promulgate emergency ~~government management~~ plans consistent with state plans, direct the emergency ~~government management~~ program and perform such other duties related to emergency ~~government management~~ as are required by the governing body and the emergency govern-

ment management committee of the governing body when applicable.

(b) The head of emergency government management services in each county shall coordinate and assist in developing town and municipal emergency government management plans within the county, integrate such plans with the county plan, advise the department of all emergency government management planning in the county and submit to the adjutant general such reports as he or she requires, direct and coordinate emergency government management activities throughout the county during a state of emergency, and direct countywide emergency government management training programs and exercises.

(c) The head of emergency government management services in each town and municipality shall direct local emergency government management training programs and exercises, direct participation in emergency government management programs and exercises ordered by the adjutant general and the county head of emergency government management services, and advise the county head of emergency government management services on local emergency government management programs and submit to him or her such reports as he or she requires.

(d) During the continuance of a state of emergency proclaimed by the governor, the head of emergency government management services in each county, town and municipality, on behalf of his or her respective county, town or municipality, may contract with any person to provide equipment and services on a cost basis to be used in disaster relief.

SECTION 24. 166.03 (7) (a) and (b) of the statutes are amended to read:

166.03 (7) (a) Counties, towns and municipalities may cooperate under s. 66.30 to furnish services, combine offices and finance emergency government management services.

(b) Counties, towns and municipalities may contract for emergency government management services with political subdivisions, emergency government management units and civil defense units of this state, and upon prior approval of the adjutant general, with such entities in bordering states. A copy of each such agreement shall be filed with the adjutant general within 10 days after execution thereof.

SECTION 25. 166.03 (8) (a) to (e) and (g) of the statutes are amended to read:

166.03 (8) (a) No emergency government management organization established under this section shall participate in any form of political activity or be employed directly or indirectly for any political activity.

(b) No emergency government management organization established under this section shall be employed to interfere with the orderly process of a labor dispute.

(c) No person shall be employed or associated in any capacity in any emergency government management or-

ganization 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) Employees of municipal and county emergency government management units are employees of the municipality or county to which the unit is attached for purposes of worker's compensation benefits. Employees of the area and state emergency government management units are employees of the state for purposes of worker's compensation benefits. Volunteer emergency government management workers are employees of the emergency government management unit with whom duly registered in writing for purposes of worker's compensation benefits. An emergency government management employee or volunteer who engages in emergency government management activities upon order of any echelon in the emergency government management organization other than that which carries his or her worker's compensation coverage shall be eligible for the same benefits as though employed by the governmental unit employing him or her. Any employment which is part of an emergency government management program including but not restricted because of enumeration, test runs and other activities which have a training objective as well as emergency government management activities during an emergency proclaimed in accordance with this chapter and which grows out of, and is incidental to, such emergency government management activity is covered employment. Members of an emergency government management unit who are not acting as employees of a private employer during emergency government management activities are employees of the emergency government management unit for which acting. If no pay agreement exists or if the contract pay is less, pay for worker's compensation purposes shall be computed in accordance with s. 102.11.

(e) Emergency government management employees as defined in par. (d) shall be indemnified by their sponsor against any tort liability to third persons incurred in the performance of emergency government management activities while acting in good faith and in a reasonable manner. Emergency government management activities constitute a governmental function.

(g) Emergency government management employees as such shall receive no pay unless specific agreement for pay is made.

SECTION 26. 166.03 (9), (10), (13) and (14) of the statutes are amended to read:

166.03 (9) BEARING OF LOSSES. Any loss arising from the damage to or destruction of government-owned equipment utilized in any authorized emergency government management activity shall be borne by the owner thereof.

(10) EXEMPTION FROM LIABILITY. No person who provides equipment or services under the direction of the governor, the adjutant general or the head of emergency government management services in any county, town or municipality during a state of emergency declared by the governor is liable for the death of or injury to any person or damage to any property caused by his or her actions, except where the trier of fact finds that the person acted intentionally or with gross negligence. This subsection does not affect the right of any person to receive benefits to which he or she would otherwise be entitled under the worker's compensation law or under any pension law, nor does it affect entitlement to any other benefits or compensation authorized by state or federal law.

(13) AUTHORITY TO WITHHOLD GRANTS. If the adjutant general finds that any political subdivision of the state has not complied with the requirement of this section that it establish and maintain an operating emergency government management organization, he or she 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 adjutant general in accordance with the agreement under which the grant was made, the adjutant general may refuse to make any additional grants to such political subdivision until it has complied with the conditions of the prior grant, and he or she may start recovery proceedings on the funds and items of equipment which have not been used in accordance with the conditions of the grant.

(14) PENALTIES. Whoever intentionally fails to comply with the directives of emergency government management authorities promulgated under this section during a state of emergency or during any training program or exercises may be fined not more than \$200 or imprisoned not more than 90 days or both.

SECTION 27. 166.05 (1) of the statutes is amended to read:

166.05 (1) DESIGNATION OF EMERGENCY TEMPORARY LOCATION. Whenever, during a state of emergency it becomes imprudent, inexpedient or impossible to conduct the affairs of state government at the state capital, 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 or she deems advisable, 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 emergency government management plan authorized by s. 166.03. 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 ended under s. 166.03 and the seat of government is returned to its normal location.

SECTION 28. 166.06 (1) of the statutes is amended to read:

166.06 (1) DESIGNATION OF EMERGENCY TEMPORARY LOCATIONS. Whenever during a state of emergency 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 or her 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 emergency government management plan.

SECTION 29. 166.15 (1) (d) of the statutes is amended to read:

166.15 (1) (d) "Emergency provider" means any person who provides emergency care or facilities and includes emergency government management.

SECTION 30. 166.20 (3) (c) of the statutes is amended to read:

166.20 (3) (c) Consult and coordinate with the county board, the county and local heads of emergency government management services designated under s. 166.03 (4) (a) or (b) and the county emergency government management committee designated under s. 166.03 (4) (c) in the execution of the local emergency planning committee's duties under this section.

SECTION 31. 166.22 (1) (c) of the statutes is amended to read:

166.22 (1) (c) "Local agency" means an agency of a county, city, village or town, including a municipal police or fire department, a municipal health organization, a county office of emergency government management, a county sheriff, an emergency medical service or a public works department.

SECTION 32. 343.055 (1) (b) of the statutes is amended to read:

343.055 (1) (b) *Fire fighters.* The operator of the commercial motor vehicle including, without limitation, fire trucks, hook and ladder trucks and foam or water transporters, is a person employed by a volunteer or paid fire organization and the person is operating emergency or fire fighting equipment necessary to the preservation of life or property or the execution of emergency govern-

ment management functions and equipped with a siren and warning lamps as provided in ss. 347.25 (1) and 347.38 (4) and the operation is in the routine performance of other duties of the fire organization or in response to an emergency call under s. 346.03 or during the return from a fire or other emergency response.

SECTION 33. Nonstatutory provisions.

(1) Notwithstanding section 15.315 (1) of the statutes, as affected by this act, the members appointed to the state emergency response board under that subsection shall serve for the following initial terms:

(a) One of the members representing industry, the member representing a labor organization, the member representing small businesses and the member representing the department of natural resources shall serve for terms expiring on May 1, 1997.

(b) The member representing a farm or agricultural organization, the member representing the department of agriculture, trade and consumer protection, the member

representing fire fighting and the member representing an environmental organization shall serve for terms expiring on May 1, 1998.

(c) The other member representing industry, the member representing public or community health services, the member representing law enforcement and one of the members representing elected officials or employes of county or municipal government shall serve for terms expiring on May 1, 1999.

(d) The other member representing elected officials or employes of county or municipal government, the member representing the department of health and family services, the member representing the department of transportation and the member representing the department of commerce shall serve for terms expiring on May 1, 2000.

SECTION 34. Effective date.

(1) This act takes effect on July 1, 1996, or on the day after publication, whichever is later.

