

2003 DRAFTING REQUEST

Bill

Received: **01/17/2003**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Dick Sweet**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters: **mshovers
dkennedy
rryan**

Subject: **Military Affairs - emerg govt
Health - public health
Criminal Law - miscellaneous
Courts - immunity liability
Munis - miscellaneous
Counties - miscellaneous**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Public health, mutual aid, emergency management, exemption from liability during an emergency and crime of releasing a harmful substance

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							Crime
/P1	rnelson2 02/18/2003	csicilia 03/19/2003	chaskett 03/20/2003		amentkow 03/20/2003		S&L Crime

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	rryan 02/24/2003			_____			
	mshovers 03/12/2003			_____			
	dkennedy 03/17/2003			_____			
/P2	rnelson2 04/08/2003	csicilia 04/09/2003	chaskett 04/09/2003	_____	amentkow 04/09/2003		S&L Crime
/1	rnelson2 04/10/2003	csicilia 04/10/2003	pgreensl 04/10/2003	_____	amentkow 04/10/2003	mbarman 04/14/2003	

FE Sent For:

AA
in trd.

<END>

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Jacket
-1601 for
Senate &
send to Pam
Shannon, LC

↑
per
[Signature]

S&L
Crime

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1 g/s 4/10/03

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03

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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mshovers	_____
03/12/2003	_____
dkennedy	_____
03/17/2003	_____

FE Sent For:

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PS:RNS:jal;wu

*Dick Sweet / Pam Shannon / No LRB
for Leg. Council / and - see note below*

01/17/2003

1 **AN ACT** to amend 20.465 (3) (e), 166.03 (2) (a) 1., 2., and 3., 166.03 (5) (a), 166.03
 2 (10) and 250.042 (1); and to create 15.197 (13), 20.435 (1) (c), 66.0314, 166.02
 3 (6g), (6m), and (6r), 252.06 (10) (c), 947.017 and 973.06 (1) (ar) of the statutes;
 4 **relating to:** creating a public health council, reimbursement for quarantine costs,
 5 intrastate mutual aid, requiring use of the incident command system in emergency
 6 response, exemption from liability during a state of emergency, threats to release or
 7 disseminate harmful chemical, biological, or radioactive substances, providing a
 8 penalty, and making appropriations.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on the Public Health System's Response to Terrorism and Public Health Emergencies.

Public Health Council

The bill creates a 17-member Public Health Council in the Department of Health and Family Services (DHFS). The council must include representatives of health care consumers, health care providers, health professions educators, local health departments and boards, public safety agencies, and the Public Health Advisory Committee established by the Secretary of DHFS.

The council is required to advise DHFS, the governor, the legislature, and the public on progress in implementing DHFS's 10-year public health plan and coordination of responses to public health emergencies.

Reimbursement for Quarantine Costs

The bill requires the state to reimburse local health departments for all of their expenses incurred in quarantining a person outside his or her home during a declared state of emergency related to public health and not reimbursed from federal funds.

Reimbursement would be made from one of 2 state sum sufficient appropriations: (1) a DHFS appropriation created in this bill, if the governor has called a state of emergency related to public health under s. 166.03 (1) (b) 1. and has designated DHFS as the lead state agency; or (2) an existing Department of Military Affairs (DMA) appropriation, if the governor has called a state of emergency related to public health under s. 166.03 (1) (b) 1. but has not designated DHFS as the lead state agency.

Intrastate Mutual Aid

The bill establishes a statewide system of mutual aid for emergency management programs, emergency medical services (EMS) programs, fire departments, and local health departments.

Currently, law enforcement agencies are authorized to enter into mutual aid agreements with other law enforcement agencies in the state, under s. 66.0313 (2), stats. The personnel of the agency furnishing assistance are considered employees of the requesting agency while providing assistance. Law enforcement agencies may also enter into mutual aid agreements with law enforcement agencies in adjacent states.

The state is party to a compact for interstate emergency management mutual aid, but there is no specific statutory provision for intrastate emergency management mutual aid. The statutes provide that counties, towns, and municipalities may cooperate through an intergovernmental contract to provide and finance emergency management services and combine offices. Generally, this contracting has been between adjacent counties.

Fire departments throughout the state operate under mutual aid agreements with other in-state fire departments that are not specifically provided for in statutes. These mutual aid agreements appear to fall under the general language of s. 66.0301, stats., which permits municipalities to enter into intergovernmental cooperation agreements. A provision of the Wisconsin administrative code relating to fire department dues provides that a fire department may use mutual aid agreements as a means of providing fire protection services. [s. Comm 14.48 (1) (b) 1., Wis. Adm. Code.]

Some local fire departments are also parties to interstate fire mutual aid agreements under the general statutory provision authorizing municipal interstate cooperation agreements. [s. 66.0303, stats.]

Under the bill, upon the request of a county, city, village, or town, or a person acting under an incident command system (ICS), the personnel of any emergency management program, EMS program, fire department, or

response by multiple levels of government. The EOP notes that these command and control systems require the participation of the chief elected officials. The EOP also provides that as the lead state agency for direction and control, WEM is to direct and coordinate emergency operations to support incident command at the local level.

At present, there are no statutory provisions pertaining to incident command.

This bill does the following:

1. Defines the term "incident command system", using language from the definition in s. Comm 30.01 (16), Wis. Adm. Code, and from the State of Washington's incident command statutes.
2. Requires that an incident command system be used by all emergency response agencies, including local health departments, in responding to, managing, and coordinating multi-agency or multi-jurisdiction incidents, when a state or local emergency declaration has been made or in any other emergency situation.
3. Requires the Adjutant General, in developing statewide emergency training and exercise programs, to provide training to officers and employees of local health departments and to elected and appointed local government officials in use of the ICS in managing emergencies. The Adjutant General must consult with DHFS regarding the ICS training for local health department personnel. The bill requires the Adjutant General to utilize federal funding to provide this training, to the extent possible.

Exemption From Liability

Current law provides an exemption from liability for a person who provides equipment or services during a state of emergency declared by the governor for the death of or injury to any person or damage to any property caused by his or her actions. The immunity does not apply if the person acted intentionally or with gross negligence. Under current law, the exemption from liability applies if the person provides the equipment or services under the direction of the governor, the adjutant general, or the head of emergency management services in any county, town, or municipality.

The bill amends the law so that the exemption from liability also applies if the person provides the equipment or services under the direction of DHFS, if that department is designated by the governor as the lead state agency to address a public health emergency, or at the direction of a local health department that is acting as the agent of DHFS.

local health department may assist the requester within the requester's jurisdiction, without regard to any other jurisdictional provision. The entity employing the personnel acting in response to a request for assistance is responsible for the personnel-related costs incurred in providing the assistance. The bill defines "incident command system" using language from the definition in s. Comm 30.01 (16), Wis. Adm. Code, and from the state of Washington's ICS statutes.

Incident Command System

The bill requires utilization of the ICS in managing emergencies and training of specified personnel in the use of the ICS.

Under current law:

1. Department of Commerce administrative rules governing fire department incident management require that every public sector fire department establish an ICS which has written guidelines applying to all fire fighters involved in emergency operations and which identifies fire fighter roles and responsibilities relating to the safety of operations. These rules define "incident command system" as an organized system of roles, responsibilities, and suggested operating guidelines used to manage and direct emergency operations. Under these rules, fire departments are required to train all fire fighters involved in emergency operations in the ICS and assign safety responsibilities to supervisory personnel at each level of operations. [ss. Comm 30.14 (1) (a) to (c) and 30.01 (16), Wis. Adm. Code.] A footnote to the incident command rule provision indicates that suggested operating guidelines have been developed and published by the Wisconsin Technical Colleges System Board.
2. Department of Natural Resources administrative rules relating to hazardous substance discharge response provide that when deemed appropriate to effectively coordinate all actions at the scene of a hazardous substance discharge, an ICS shall be implemented. In these rules, "incident command system" is defined as an organized approach used to effectively control and manage operations at the scene of a hazardous substance discharge. [ss. NR 702.09 (2) and 702.03, Wis. Adm. Code].
3. The state Emergency Operations Plan (EOP) developed by the Division of Emergency Management (known as "Wisconsin Emergency Management" or "WEM") provides that an ICS "will be used in disaster response". However, the EOP does not indicate specifically what the ICS system entails or who must use it. The EOP further states that unified command is to be used in situations which affect multiple jurisdictions or multiple agencies within a jurisdiction or which require

Chemical, Biological, or Radioactive Substance Threats

The bill prohibits a person from intentionally making a threat to release or disseminate a harmful substance, knowing that the threat is false, if the threat induces a reasonable expectation or fear that the person will release or disseminate a harmful substance. The term "harmful substance" is defined as radioactive material that is harmful to human life, a toxic chemical or its precursor, or a biological agent. A person who violates this prohibition is guilty of a Class I felony, which is punishable by a fine of not more than \$10,000, imprisonment for not more than 3-1/2 years, or both.

The bill further requires that persons who violate this prohibition are to be assessed by the court for moneys expended by a state or local government agency for activities in connection with the threat, including: (1) the response to the threat by emergency medical personnel; (2) the analysis of any substance alleged to be a harmful substance; and (3) the treatment of persons who are alleged to have been exposed to an alleged harmful substance. The moneys assessed are to be reimbursed to the state or local agency that incurred the expense.

1 **SECTION 1.** 15.197 (13) of the statutes is created to read:

2 **15.197 (13) PUBLIC HEALTH COUNCIL.** There is created in the department of health and
3 family services a public health council consisting of 17 members nominated by the secretary
4 of health and family services and appointed by the governor for staggered 3-year terms. The
5 council shall include representatives of health care consumers, health care providers, health
6 professions educators, local health departments and boards, public safety agencies, and the
7 public health advisory committee created under s. 15.04 (1) (c). The council shall monitor
8 implementation of any document prepared by the department of health and family services
9 under s. 250.07 (1) and shall advise the governor, the legislature, the department of health and
10 family services, and the public on progress in implementing the document and coordination
11 of responses to public health emergencies.

12 **SECTION 2.** 20.435 (1) (c) of the statutes is created to read:

1 20.435 (1) (c) *Public health emergency quarantine costs.* A sum sufficient to reimburse
2 local health departments as defined in s. 250.01 (4) for all of their expenses incurred in
3 quarantining a person outside his or her home, if the governor has declared a state of
4 emergency related to public health under s. 166.03 (1) (b) 1. and has designated the
5 department of health and family services as the lead state agency to respond to the emergency.

6 **SECTION 3.** 20.465 (3) (e) of the statutes is amended to read:

7 20.465 (3) (e) *Disaster recovery aid; public health emergency quarantine costs.* A sum
8 sufficient to pay the state share of grants to individuals ~~and~~, to make payments to local
9 governments as defined in 42 USC 5122 (6) under federal disaster recovery programs as
10 authorized in s. 166.03 (2) (b) 8., and to reimburse local health departments as defined in s.
11 250.01 (4) for all of their expenses incurred in quarantining a person outside his or her home,
12 if the governor has declared a state of emergency related to public health under s. 166.03 (1)
13 (b) 1. but has not designated the department of health and family services as the lead state
14 agency to respond to the emergency.

15 **SECTION 4.** 66.0314 of the statutes is created to read:

16 **66.0314 Emergency management, emergency medical services, fire, and local**
17 **health departments; mutual assistance. (1)** In this section:

18 (a) "Emergency management program" means the emergency management program
19 of a county, town, or municipality under s. 166.03 (4) (a).

20 (b) "Emergency medical services program" means a program established under s.
21 146.55.

22 (c) "Fire department" means any public organization engaged in fire fighting or a
23 private sector employer fire company or fire department organized as a nonstock, nonprofit
24 corporation under ch. 181, stats., or under ch. 213, stats., without the input of a municipality.

1 (d) "Incident command system" means an all-hazards, on-scene functional
2 management system of roles, responsibilities, and operating guidelines used to manage and
3 direct multi-jurisdictional or multi-agency emergency operations.

4 (e) "Local health department" has the meaning specified in s. 250.01 (4).

5 (2) Upon the request of a county, city, village or town, or a person acting under an
6 incident command system, the personnel of any emergency management program, emergency
7 medical services program, fire department, or local health department may assist the requester
8 within the requester's jurisdiction, notwithstanding any other jurisdictional provision. The
9 program or department employing the personnel acting in response to a request for assistance
10 shall be responsible for any personnel-related costs.

11 SECTION 5. 166.02 (6g), (6m), and (6r) of the statutes are created to read:

12 166.02 (6g) "Incident" means an occurrence or event, caused by enemy action or natural
13 or man-made disaster, that requires action by emergency response personnel to prevent or
14 minimize loss of life or damage to property or natural resources.

15 (6m) "Incident command system" means an all-hazards, on-scene functional
16 management system of roles, responsibilities, and operating guidelines used to manage and
17 direct multi-jurisdictional or multi-agency emergency operations.

18 (6r) "Local health department" has the meaning specified in s. 250.01 (4).

19 SECTION 6. 166.03 (2) (a) 1., 2., and 3. of the statutes are amended to read:

20 166.03 (2) (a) 1. Subject to approval by the governor, develop and promulgate a state
21 plan of emergency management for the security of persons and property which shall be
22 mandatory during a state of emergency. In developing the plan, the adjutant general shall seek
23 the advice of the department of health and family services with respect to the emergency
24 medical aspects of the plan. The plan shall require the use of the incident command system

1 by all emergency response agencies, including local health departments, for
2 multi-jurisdiction or multi-agency emergency operations during a state of emergency
3 declared under sub. (1) (b) 1. or s. 166.23 (1) or in any other emergency situation.

4 2. Prescribe and carry out statewide training programs and exercises to develop
5 emergency management proficiency, disseminate information including warnings of enemy
6 action, serve as the principal assistant to the governor in the direction of emergency
7 management activities and coordinate emergency management programs between counties.
8 The training programs shall include training for local government elected and appointed
9 officials and officers and employees of local health departments in managing emergency
10 operations utilizing the incident command system. The adjutant general shall consult with the
11 department of health and family services regarding the provision of incident command system
12 training to local health department personnel. To the extent possible, the adjutant general shall
13 utilize federal funding to provide incident command system training.

14 3. Furnish guidance and develop and promulgate standards for emergency management
15 programs for counties, towns and municipalities, and prescribe nomenclature for all levels of
16 emergency management. The standards shall include a requirement that county, town, and
17 municipal emergency management programs under sub. (4) (a) utilize the incident command
18 system for multi-jurisdiction or multi-agency emergency response during a state of
19 emergency declared under sub. (1) (b) 1. or s. 166.23 (1) or in any other emergency situation.

20 **SECTION 7.** 166.03 (5) (a) of the statutes is amended to read:

21 166.03 (5) (a) The head of emergency management services in each county, town and
22 municipality shall for his or her respective county, town or municipality, develop and
23 promulgate emergency management plans consistent with state plans, direct the emergency
24 management program and perform such other duties related to emergency management as are

1 required by the governing body and the emergency management committee of the governing
2 body when applicable. The emergency management plans shall require the use of the incident
3 command system by all emergency response agencies, including local health departments, for
4 multi-jurisdiction or multi-agency emergency operations during a state of emergency
5 declared under sub. (1) (b) 1. or s. 166.23 (1) or in any other emergency situation.

6 **SECTION 8.** 166.03 (10) of the statutes is amended to read:

7 166.03 (10) EXEMPTION FROM LIABILITY. No person who provides equipment or services
8 under the direction of the governor, the adjutant general or, the head of emergency
9 management services in any county, town or municipality, the department of health and family
10 services if that department is designated by the governor under s. 166.03 (1) (b) 1., or a local
11 health department acting under s. 251.05 (3) (e) during a state of emergency declared by the
12 governor is liable for the death of or injury to any person or damage to any property caused
13 by his or her actions, except where the trier of fact finds that the person acted intentionally or
14 with gross negligence. This subsection does not affect the right of any person to receive
15 benefits to which he or she would otherwise be entitled under the worker's compensation law
16 or under any pension law, nor does it affect entitlement to any other benefits or compensation
17 authorized by state or federal law.

18 **SECTION 9.** 250.042 (1) of the statutes is amended to read:

19 250.042 (1) If the governor declares a state of emergency related to public health under
20 s. 166.03 (1) (b) 1. and designates the department as the lead state agency to respond to that
21 emergency, the department shall act as the public health authority during the period of the state
22 of emergency. The department shall ensure that the emergency operations during the state
23 of emergency are conducted using the incident command system, if required under s. 166.03
24 (2) (a) 1. During the period of the state of emergency, the secretary may designate a local

1 health department as an agent of the department and confer upon the local health department,
2 acting under that agency, the powers and duties of the public health authority.

3 **SECTION 10.** 252.06 (10) (c) of the statutes is created to read:

4 252.06 (10) (c) All expenses incurred by a local health department in quarantining a
5 person outside his or her home during a state of emergency related to public health declared
6 by the governor under s. 166.03 (1) (b) 1. and not reimbursed from federal funds shall be paid
7 for under either of the following, as appropriate:

8 1. If the governor designates the department as the lead state agency under s. 166.03
9 (1) (b) 1., from the appropriation under s. 20.435 (1) (c).

10 2. If the governor does not designate the department as the lead state agency under s.
11 166.03 (1) (b) 1., from the appropriation under s. 20.465 (3) (e).

12 **SECTION 11.** 947.017 of the statutes is created to read:

13 **947.017 Threats to release chemical, biological, or radioactive substances.** (1) In
14 this section:

15 (a) "Biological agent" means a microorganism or an infectious substance, or any
16 naturally occurring, bioengineered, or synthesized toxin or component of a microorganism or
17 an infectious substance that is capable of causing death, disease, or other biological
18 malfunction in humans.

19 (b) "Harmful substance" means radioactive material that is harmful to human life, a
20 toxic chemical or its precursor, or a biological agent.

21 (c) "Microorganism" includes a bacterium, virus, fungus, rickettsia, or protozoan.

22 (d) "Precursor" means any chemical reactant that takes part at any stage in the
23 production by whatever method of a toxic chemical.

1 (e) "Toxic chemical" means any chemical that through its chemical action on life
2 processes can cause death, temporary incapacitation, or permanent harm to humans.

3 (2) Whoever, knowing the threat to be false, intentionally threatens to release or
4 disseminate a harmful substance, if the threat induces a reasonable expectation or fear that the
5 person will release or disseminate a harmful substance, is guilty of a Class I felony.

6 **SECTION 12.** 973.06 (1) (ar) of the statutes is created to read:

7 973.06 (1) (ar) 1. If the defendant violated s. 947.017, the moneys expended by a state
8 or local government agency for the activities in connection with a threat under s. 947.017 (2),
9 including all of the following:

10 a. The response to the threat by emergency medical personnel, as defined in s. 941.37
11 (1) (c).

12 b. The analysis of any substance alleged to be a harmful substance, as defined in s.
13 947.017 (1).

14 c. The medical treatment of persons who are alleged to have been exposed to an alleged
15 harmful substance, as defined under s. 947.017 (1).

16 2. The moneys assessed under subd. 1. shall be reimbursed to the state or local agency
17 that incurred the expense.

18 **SECTION 13. Nonstatutory provisions.**

19 (1) PUBLIC HEALTH COUNCIL. Notwithstanding section 15.197 (13) of the statutes, as
20 created by this act, the initial members of the public health council shall be appointed by the
21 first day of the 4th month beginning after the effective date of this subsection for the following
22 terms:

23 (a) Six members for terms expiring on July 1, 2005.

24 (b) Six members for terms expiring on July 1, 2006.

1 (c) Five members for terms expiring on July 1, 2007.

2 (END)

Comm 30.01(16)



(16) "Incident command system" means an organized system of roles, responsibilities and suggested operating guidelines used to manage and direct emergency operations.



By Friday 3/21

State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1601/P1

RPN: .:pg

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RLRMES & DAK

D-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAV
Jic notes ✓
X-ref ✓

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Reger cut

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 6 an emergency response; exemption from liability during a state of emergency,
 7 threats to release or disseminate harmful chemical, biological, or radioactive
 8 substances, ~~providing a penalty~~ and making appropriations. and providing a penalty

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

anal:jlcnote
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~~JOINT LEGISLATIVE COUNCIL~~ PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on the Public Health System's Response to Terrorism and Public Health Emergencies.

Keep Space

Public Health Council

The bill creates a 17-member Public Health Council in the Department of Health and Family Services (DHFS). The council must include representatives of health care consumers, health care providers, health professions educators, local health departments and boards, public safety agencies, and the Public Health Advisory Committee established by the Secretary of DHFS.

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The council is required to advise DHFS, the governor, the legislature, and the public on progress in implementing DHFS's 10-year public health plan and coordination of responses to public health emergencies.

Keep Space

Reimbursement for Quarantine Costs

The bill requires the state to reimburse local health departments for all of their expenses incurred in quarantining a person outside his or her home during a declared state of emergency related to public health and not reimbursed from federal funds.

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Reimbursement would be made from one of 2 state sum sufficient appropriations: (1) a DHFS appropriation created in this bill, if the governor has called a state of emergency related to public health under s. 166.03 (1) (b) 1. and has designated DHFS as the lead state agency; or (2) an existing Department of Military Affairs (DMA) appropriation, if the governor has called a state of emergency related to public health under s. 166.03 (1) (b) 1. but has not designated DHFS as the lead state agency.

Keep Space

Intrastate Mutual Aid

The bill establishes a statewide system of mutual aid for emergency management programs, emergency medical services (EMS) programs, fire departments, and local health departments.

Currently, law enforcement agencies are authorized to enter into mutual aid agreements with other law enforcement agencies in the state, under s. 66.0313 (2), stats. The personnel of the agency furnishing assistance are considered employees of the requesting agency while providing assistance. Law enforcement agencies may also enter into mutual aid agreements with law enforcement agencies in adjacent states.

The state is party to a compact for interstate emergency management mutual aid, but there is no specific statutory provision for intrastate emergency management mutual aid. The statutes provide that counties, towns, and municipalities may cooperate through an intergovernmental contract to provide and finance emergency management services and combine offices. Generally, this contracting has been between adjacent counties.

Fire departments throughout the state operate under mutual aid agreements with other in-state fire departments that are not specifically provided for in statutes. These mutual aid agreements appear to fall under the general language of s. 66.0301, stats., which permits municipalities to enter into intergovernmental cooperation agreements. A provision of the Wisconsin administrative code relating to fire department dues provides that a fire department may use mutual aid agreements as a means of providing fire protection services. [s. Comm. 14.48 (1) (b) 1., Wis. Adm. Code.]

Some local fire departments are also parties to interstate fire mutual aid agreements under the general statutory provision authorizing municipal interstate cooperation agreements. [s. 66.0303, stats.]

Under the bill, upon the request of a county, city, village, or town, or a person acting under an incident command system (ICS), the personnel of any emergency management program, EMS program, fire department, or local health department may assist the requester within the requester's jurisdiction, without regard to any other jurisdictional

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provision. The entity employing the personnel acting in response to a request for assistance is responsible for the personnel-related costs incurred in providing the assistance. The bill defines "incident command system" using language from the definition in s. Comm 30.01 (16), Wis. Adm. Code, and from the state of Washington's ICS statutes.

Keep space

Incident Command System

The bill requires utilization of the ICS in managing emergencies and training of specified personnel in the use of the ICS.

Under current law:

1. Department of Commerce administrative rules governing fire department incident management require that every public sector fire department establish an ICS which has written guidelines applying to all fire fighters involved in emergency operations and which identifies fire fighter roles and responsibilities relating to the safety of operations. These rules define "incident command system" as an organized system of roles, responsibilities, and suggested operating guidelines used to manage and direct emergency operations. Under these rules, fire departments are required to train all fire fighters involved in emergency operations in the ICS and assign safety responsibilities to supervisory personnel at each level of operations. [ss. Comm 30.14 (1) (a) to (c) and 30.01 (16), Wis. Adm. Code.] A footnote to the incident command rule provision indicates that suggested operating guidelines have been developed and published by the Wisconsin Technical Colleges System Board.

2. Department of Natural Resources administrative rules relating to hazardous substance discharge response provide that when deemed appropriate to effectively coordinate all actions at the scene of a hazardous substance discharge, an ICS shall be implemented. In these rules, "incident command system" is defined as an organized approach used to effectively control and manage operations at the scene of a hazardous substance discharge. [ss. NR 702.09 (2) and 702.03, Wis. Adm. Code].

3. The state Emergency Operations Plan (EOP) developed by the Division of Emergency Management (known as "Wisconsin Emergency Management" or "WEM") provides that an ICS "will be used in disaster response". However, the EOP does not indicate specifically what the ICS system entails or who must use it. The EOP further states that unified command is to be used in situations which affect multiple jurisdictions or multiple agencies within a jurisdiction or which require response by multiple levels of government. The EOP notes that these command and control systems require the participation of the chief elected officials. The EOP also provides that as the lead state agency for direction and control, WEM is to direct and coordinate emergency operations to support incident command at the local level.

At present, there are no statutory provisions pertaining to incident command.

This bill does the following:

1. Defines the term "incident command system", using language from the definition in s. Comm 30.01 (16), Wis. Adm. Code, and from the State of Washington's incident command statutes.

2. Requires that an incident command system be used by all emergency response agencies, including local health departments, in responding to, managing, and coordinating multi-agency or multi-jurisdiction incidents, when a state or local emergency declaration has been made or in any other emergency situation.

3. Requires the Adjutant General, in developing statewide emergency training and exercise programs, to provide training to officers and employees of local health

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☞ Characters that cannot be used in the Relating clause of Documents

Overview

Created March 10, 2003

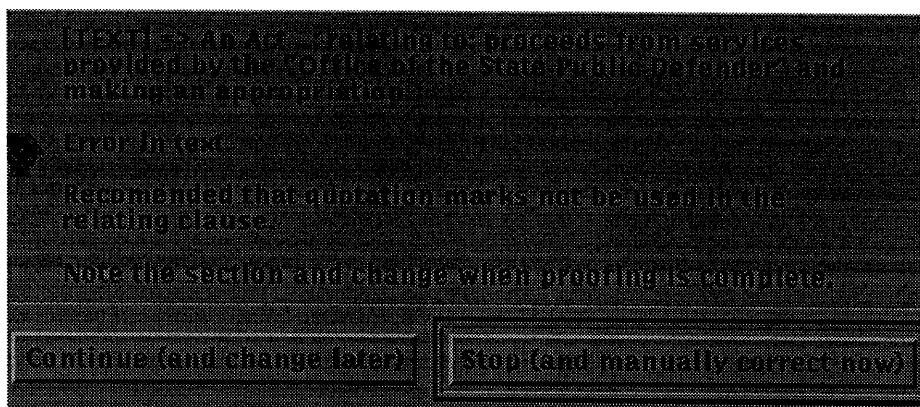
Created By: LRB Administrative Support (ch)

1. **Avoid use of certain characters in the relating clause.** There are several characters and hard spaces that can be created in a QuickSilver document using the escape key in conjunction with another keyboard key, using the **Create** menu or using keyboard key combinations. There is a problem with translation of these characters between the Oracle database and QuickSilver that has resulted in bill jackets and bill histories displaying characters as "☐" or "•". Avoid using the following characters in the relating clause:

- esc + ht (produces a thin, hard space about the size of a parentheses)
- esc + hh (produces a hairline, hard space about half the size of a thin, hard space)
- esc + hf (produces a hard space the size of a figure)
- esc + ha (produces a hard em space)
- esc + hd (produces a hard en space)
- esc + space bar (produces a hard space–bar space)
- esc + = key (produces the dash —)
- esc + – key (produces a short hyphen -) (the hyphen –, used without the escape key, is the correct hyphen for bill typing)

2. **Avoid using apostrophe and quote characters in the relating clause.**

- Apostrophe ('): The apostrophe will double in the relating clause when jacketed so do not use it in the relating text.
- Quotes (""): Quotes in the relating clause are not acceptable. The proof draft routine will remind you when quotes are present and need to be removed. Below is an example of the window that will appear to warn you there are quotes in the relating clause.



departments and to elected and appointed local government officials in use of the ICS in managing emergencies. The Adjutant General must consult with DHFS regarding the ICS training for local health department personnel. The bill requires the Adjutant General to utilize federal funding to provide this training, to the extent possible.

Keep Space

Exemption From Liability

Current law provides an exemption from liability for a person who provides equipment or services during a state of emergency declared by the governor for the death of or injury to any person or damage to any property caused by his or her actions. The immunity does not apply if the person acted intentionally or with gross negligence. Under current law, the exemption from liability applies if the person provides the equipment or services under the direction of the governor, the adjutant general, or the head of emergency management services in any county, town, or municipality.

delete spaces

The bill amends the law so that the exemption from liability also applies if the person provides the equipment or services under the direction of DHFS, if that department is designated by the governor as the lead state agency to address a public health emergency, or at the direction of a local health department that is acting as the agent of DHFS.

Keep Space

Chemical, Biological, or Radioactive Substance Threats

The bill prohibits a person from intentionally making a threat to release or disseminate a harmful substance, knowing that the threat is false, if the threat induces a reasonable expectation or fear that the person will release or disseminate a harmful substance. The term "harmful substance" is defined as radioactive material that is harmful to human life, a toxic chemical or its precursor, or a biological agent. A person who violates this prohibition is guilty of a Class I felony, which is punishable by a fine of not more than \$10,000, imprisonment for not more than 3-1/2 years, or both.

delete spaces

The bill further requires that persons who violate this prohibition are to be assessed by the court for moneys expended by a state or local government agency for activities in connection with the threat, including: (1) the response to the threat by emergency medical personnel; (2) the analysis of any substance alleged to be a harmful substance; and (3) the treatment of persons who are alleged to have been exposed to an alleged harmful substance. The moneys assessed are to be reimbursed to the state or local agency that incurred the expense.

1 SECTION 1. 15.197 (13) of the statutes is created to read:

2 15.197 (13) PUBLIC HEALTH COUNCIL. There is created in the department of

3 health and family services a public health council consisting of 17 members

4 nominated by the secretary of health and family services and appointed by the

5 ~~governor~~ for staggered 3-year terms. The council shall include representatives of

6 health care consumers, health care providers, health professions educators, local

7 health departments and boards, public safety agencies, and ~~the~~ public health

8 advisory committee ~~created under s. 15.04(1)(b)~~ The council shall monitor

9 ~~implementation of any document prepared by the department of health and family~~

STAY
Leave as typed

, if created by the secretary of health and family services under s. 15.04(1)(c),

1 services under s. 250.07 (1) and shall advise the governor, the legislature, the
 2 department of health and family services, and the public on progress in
 3 implementing the document and coordination of responses to public health
 4 emergencies.

^

5 SECTION 2. 20.435 (1) (c) of the statutes is created to read:

6 20.435 (1) (c) [✓] *Public health emergency quarantine costs.* A sum sufficient to
 7 reimburse local health departments as defined in s. 250.01 (4) for all of their expenses
 8 incurred in quarantining a person outside his or her home, if the governor has
 9 declared a state of emergency related to public health under s. 166.03 (1) (b) 1. and
 10 has designated the department of health and family services as the lead state agency
 11 to respond to the emergency. *under s. 252.06 (10) (c) 1. ✓*

12 SECTION 3. 20.465 (3) (e) of the statutes is amended to read:

13 20.465 (3) (e) *Disaster recovery aid; public health emergency quarantine costs.*
 14 A sum sufficient to pay the state share of grants to individuals and, to make
 15 payments to local governments as defined in 42 USC 5122 (6) under federal disaster
 16 recovery programs as authorized in s. 166.03 (2) (b) 8, ^{score period} and to reimburse local health
 17 departments as defined in s. 250.01 (4) for all of their expenses incurred in
 18 quarantining a person outside his or her home, if the governor has declared a state
 19 of emergency related to public health under s. 166.03 (1) (b) 1. but has not designated
 20 the department of health and family services as the lead state agency to respond to
 21 the emergency. *PLAIN PERIOD* *under s. 252.06 (10) (c) 2. ✓*

22 SECTION 4. 66.0314 of the statutes is created to read:

23 66.0314 **Emergency management, emergency medical services, fire,**
 24 **and local health departments; mutual assistance.** (1) In this section:

1 (a) "Emergency management program" means the emergency management
2 program of a ^{city, village, town, or} ~~county, town, or municipality~~ under s. 166.03 (4) (a). ✓

3 (b) "Emergency medical services program" means a program established under
4 s. 146.55. ✓

5 (c) "Fire department" means any public organization engaged in fire fighting
6 or a private sector employer fire company or fire department organized as a nonstock,
7 nonprofit corporation under ch. 181 ^{stats.} or ~~under~~ ch. 213 ^{stats.} without the input
8 of a municipality. **** NOTE: I'm not sure it's necessary to include private sector or
entities. Couldn't they just contract with local governments? Also, I'm
not sure what is meant by the phrase "without the input of a municipality."*

9 (d) "Incident command system" means an all-hazards, on-scene functional
10 management system of roles, responsibilities, and operating guidelines used to
11 manage and direct multi-jurisdictional or multi-agency emergency operations.
Insert 6-11 on

12 (e) "Local health department" has the meaning ^{given} ~~specified~~ in s. 250.01 (4). ✓

13 (2) Upon the request of a ~~county~~ ^{or county} city, village ^{or town}, or a person acting under
14 an incident command system, the personnel of any emergency management
15 program, emergency medical services program, fire department, or local health
16 department may assist the requester within the requester's jurisdiction,
17 notwithstanding any other jurisdictional provision. The program or department
18 employing the personnel acting in response to a request for assistance shall be
19 responsible for any personnel-related costs. **** NOTE: What about damage to
equipment and clothing? You may wish*

20 SECTION 5. 166.02 ^(6g) (6m) and (6r) of the statutes are created to read:

21 166.02 (6g) "Incident" means an occurrence or event, caused by enemy action
22 or natural or man-made disaster, that requires action by emergency response
23 personnel to prevent or minimize loss of life or damage to property or natural
24 resources.

*to add a provision similar to s. 66.0513(2)
to this bill. ✓*

1 (6m) "Incident command system" means an ~~all hazards, or scene functional~~ *that is created at the scene of an emergency*
 2 *a* management system ~~of~~ *of* roles, responsibilities, and operating guidelines used to
 3 *controls* manage and direct *all of the public agencies involved in a* multi-jurisdictional or multi-agency emergency operations.

Insert
7-3YR4

(6r) "Local health department" has the meaning ~~specified~~ *given* in s. 250.01 (4).

(5)

SECTION 6. 166.03 (2) (a) 1., 2., and 3. of the statutes are amended to read:

6 166.03 (2) (a) 1. Subject to approval by the governor, develop and promulgate
 7 a state plan of emergency management for the security of persons and property
 8 which shall be mandatory during a state of emergency. In developing the plan, the
 9 adjutant general shall seek the advice of the department of health and family
 10 services with respect to the emergency medical aspects of the plan. The plan shall
 11 require the use of the incident command system by all emergency response agencies,
 12 including local health departments, ~~for~~ multi-jurisdiction^{al} or multi-agency
 13 emergency operations during a state of emergency declared under sub. (1) (b) 1. or
 14 s. 166.23 (1) or in any other emergency situation.

15 2. Prescribe and carry out statewide training programs and exercises to
 16 develop emergency management proficiency, disseminate information including
 17 warnings of enemy action, serve as the principal assistant to the governor in the
 18 direction of emergency management activities and coordinate emergency
 19 management programs between counties. The training programs shall include
 20 training for local government ~~elected and appointed~~ officials, ~~and~~ officers, and
 21 whose duties include responding to emergencies, including employees
 22 employees of local health departments in managing emergency operations utilizing
 23 the incident command system. The adjutant general shall consult with the
 24 department of health and family services regarding the provision of incident
command system training to local health department personnel. To the extent

1 possible, the adjutant general shall utilize federal funding to provide incident
 2 command system training. ✓

3 3. Furnish guidance and develop and promulgate standards for emergency
 4 management programs for counties, towns and municipalities, and prescribe
 5 nomenclature for all levels of emergency management. The standards shall include
 6 a requirement that county, town, and municipal emergency management programs
 7 under sub. (4) (a) utilize the incident command system ~~the~~ multi-jurisdiction^{al} or
 8 multi-agency ~~emergency operations~~ during a state of emergency declared under sub.
 9 (1) (b) 1. or s. 166.23 (1) or in any other emergency ~~situation~~.

10 SECTION 7. 166.03 (5) (a) of the statutes is amended to read:

11 166.03 (5) (a) The head of emergency management services in each county,
 12 town and municipality shall for his or her respective county, town or municipality,
 13 develop and promulgate emergency management plans consistent with state plans,
 14 direct the emergency management program and perform such other duties related
 15 to emergency management as are required by the governing body and the emergency
 16 management committee of the governing body when applicable. The emergency
 17 management plans shall require the use of the incident command system by all
 18 emergency response agencies, including local health departments, ~~for~~
 19 multi-jurisdiction^{al} or multi-agency ~~emergency operations~~ during a state of
 20 emergency declared under sub. (1) (b) 1. or s. 166.23 (1) or in any other emergency
 21 situation.

22 SECTION 8. 166.03 (10) of the statutes is amended to read:

23 166.03 (10) EXEMPTION FROM LIABILITY. No person who provides equipment or
 24 services under the direction of the governor, the adjutant general ~~or~~, the head of
 25 emergency management services in any county, town or municipality, the

1 department of health and family services if that department is designated by the
2 governor under s. 166.03 (1) (b) 1., or a local health department acting under s. 251.05
3 (3) (e) during a state of emergency declared by the governor is liable for the death of
4 or injury to any person or damage to any property caused by his or her actions, except
5 where the trier of fact finds that the person acted intentionally or with gross
6 negligence. This subsection does not affect the right of any person to receive benefits
7 to which he or she would otherwise be entitled under the worker's compensation law
8 or under any pension law, nor does it affect entitlement to any other benefits or
9 compensation authorized by state or federal law.

10 SECTION 9. 250.042 (1) of the statutes is amended to read:

11 250.042 (1) If the governor declares a state of emergency related to public
12 health under s. 166.03 (1) (b) 1. and designates the department as the lead state
13 agency to respond to that emergency, the department shall act as the public health
14 authority during the period of the state of emergency. The department shall ensure
15 that the emergency operations during the state of emergency are conducted using the
16 incident command system ~~required~~ ^{required} under s. 166.03 (2) (a) 1. During the period
17 of the state of emergency, the secretary may designate a local health department as
18 an agent of the department and confer upon the local health department, acting
19 under that agency, the powers and duties of the public health authority.

20 SECTION 10. 252.06 (10) (c) of the statutes is created to read:

21 252.06 (10) (c) All expenses incurred by a local health department in
22 quarantining a person outside his or her home during a state of emergency related
23 to public health declared by the governor under s. 166.03 (1) (b) 1. and not reimbursed
24 from federal funds shall be paid for under either of the following, as appropriate:

✓
INSERT
9-19

1 1. If the governor designates the department as the lead state agency under s.
2 166.03 (1) (b) 1., from the appropriation under s. 20.435 (1) (c). ✓

3 2. If the governor does not designate the department as the lead state agency
4 under s. 166.03 (1) (b) 1., from the appropriation under s. 20.465 (3) (e). ✓

5 **SECTION 11.** 947.017[^] of the statutes is created to read:

6 **947.017 Threats to release chemical, biological, or radioactive**
7 **substances. (1)** In this section:

8 (a) “Biological agent” means a microorganism or an infectious substance, or any
9 naturally occurring, bioengineered, or synthesized toxin or component of a
10 microorganism or an infectious substance that is capable of causing death, disease,
11 or other biological malfunction in humans. ✓

12 (b) “Harmful substance” means radioactive material that is harmful to human
13 life, a toxic chemical or its precursor, or a biological agent. ✓

14 (c) “Microorganism” includes a bacterium, virus, fungus, rickettsia, or
15 protozoan. ✓

16 (d) “Precursor” means any chemical reactant that takes part at any stage in the
17 production by whatever method of a toxic chemical. ✓

18 (e) “Toxic chemical” means any chemical that through its chemical action on life
19 processes can cause death, temporary incapacitation, or permanent harm to
20 humans. ✓

21 (2) Whoever, knowing the threat to be false, intentionally threatens to release
22 or disseminate a harmful substance, if the threat induces a reasonable expectation
23 or fear that the person will release or disseminate a harmful substance, is guilty of
24 a Class I felony. ✓

25 **SECTION 12.** 973.06 (1) (ar) of the statutes is created to read:

INS 11-1 →

1 973.06 (1) (ar) 1. If the defendant violated s. 947.017, the moneys expended by
2 a state or local government agency for the activities in connection with a threat under
3 s. 947.017 (2), including all of the following:

- 4 1. (a) The response to the threat by emergency medical personnel, as defined in
5 s. 941.37 (1) (c).
- 6 2. (b) The analysis of any substance alleged to be a harmful substance, as defined
7 in s. 947.017 (1).
- 8 3. (c) The medical treatment of persons who are alleged to have been exposed to
9 an alleged harmful substance, as defined under s. 947.017 (1).

10 2. The moneys assessed under subd. 1 shall be reimbursed to the state or local
11 agency that incurred the expense.

12 SECTION 13. Nonstatutory provisions.

13 (1) PUBLIC HEALTH COUNCIL. Notwithstanding section 15.197 (13) of the
14 statutes, as created by this act, the initial members of the public health council shall
15 be appointed by the first day of the 4th month beginning after the effective date of
16 this subsection for the following terms:

- 17 (a) Six members for terms expiring on July 1, 2005.
- 18 (b) Six members for terms expiring on July 1, 2006.
- 19 (c) Five members for terms expiring on July 1, 2007.

20 (END)

the length of terms specified for the members of the public health council under

d-note

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1601/Plins
RPN:....pg

1 insert 6-11rn:

2 (d) "Incident command system" means a management system established at
3 the scene of an emergency, or as close to the scene as possible, to control, direct, and
4 manage the roles, reponsibilities, and operations of all of the agencies involved in a
5 multi-jurisdictional or multi-agency emergency. ✓

6 insert 7-3rn:

7 (6m) "Incident command system" means a management system established
8 at the scene of an emergency, or as close to the scene as possible, to control, direct,
9 and manage the roles, reponsibilities, and operations of all of the agencies involved
10 in a multi-jurisdictional or multi-agency emergency.

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1601/r/rins
RLR:.....

1 **INS 11-1:**

2 973.06 (1) (ar) If the defendant violated s. 947.017[✓], moneys expended by a state
3 or local government agency in connection with the threat under s. 947.017[✓] (2), to be
4 reimbursed to that agency, including moneys expended for the following activities:

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1601/P1dakin
DAK:.....

✓
INSERT 9-19

1 **SECTION 1.** 250.07 of the statutes is renumbered 250.07 (1).

2 **SECTION 2.** 250.07 (1m) of the statutes is created to read:

3 250.07 (1m) The public health council shall monitor implementation of any
4 document developed by the department under sub. (1) (a) and shall advise the
5 governor, the legislature, the department, and the public on progress in
6 implementing the document and coordination of responses to public health
7 emergencies. ✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1601/P1dn

RLR:/:.....

cjs

date →

The offense of threatening to release chemical, biological, or radioactive substances under proposed s. 947.017, stats., is similar to the current law bomb scare offense under s. 947.015, stats. Should the bill add cross-references to proposed 947.017 in the following sections that currently reference s. 947.015:

1. Section 301.048 (2) (bm) 1.a., relating to ineligibility for the intensive sanctions program ✓
2. Section 895.035 (4a) (a) 2., relating to limits on parental liability to a school board for a child's actions ✓
3. Section 941.291 (1) (b), relating to the offense of possession of body armor by a felon ✓
4. Section 946.82 (4), relating to racketeering activity ✓
5. Section 969.08 (10) (b), relating to cause for taking a person into custody who is on bail ✓

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1601/P1dn
RLR:cjs:cph

March 19, 2003

The offense of threatening to release chemical, biological, or radioactive substances under proposed s. 947.017, stats., is similar to the current-law bomb scare offense under s. 947.015, stats. Should the bill add cross-references to proposed s. 947.017 in the following sections that currently reference s. 947.015:

1. Section 301.048 (2) (bm) 1. a., relating to ineligibility for the intensive sanctions program.
2. Section 895.035 (4a) (a) 2., relating to limits on parental liability to a school board for a child's actions.
3. Section 941.291 (1) (b), relating to the offense of possession of body armor by a felon.
4. Section 946.82 (4), relating to racketeering activity.
5. Section 969.08 (10) (b), relating to cause for taking a person into custody who is on bail.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.state.wi.us

Nelson, Robert P.

From: Sweet, Richard
Sent: Tuesday, April 08, 2003 10:16 AM
To: Nelson, Robert P.
Cc: Shannon, Pam
Subject: RE: Public health emergencies

Bob:

We can't make the changes suggested in the drafters' notes at this stage, since the draft has already been approved for introduction by the Joint Leg. Council. However, once it's introduced, we can work with the chair of the standing committee to bring up those issues.

Thanks.

Dick

-----Original Message-----

From: Nelson, Robert P.
Sent: Tuesday, April 08, 2003 9:51 AM
To: Sweet, Richard
Subject: RE: Public health emergencies

I have made a number of the changes you suggested, but still cannot go with that "all-hazards" language in the incident command definition. That is not in any of the definitions used in the WI administrative code, and is unnecessary and possibly limiting the definition. I don't understand your comment about our drafter's notes. As with every LC draft, some changes are made by us to clarify, enhance or correct the draft. Do you want us to make any changes suggested in those notes?

-----Original Message-----

From: Sweet, Richard
Sent: Friday, April 04, 2003 10:00 AM
To: Nelson, Robert P.; Ryan, Robin; Shovers, Marc; Kennedy, Debora
Cc: Shannon, Pam
Subject: Public health emergencies

Bob/Robin/Marc/Debora:

Thanks for LRB-1601/P1, the Joint Leg. Council draft on public health emergencies. There are a few changes that we would like to make in preparing a /1 version:

- 1. On page 4, line 7, "family" should replace "human".**
- 2. On page 5, line 19, and on page 6, line 9, our preference would be to use the definition of "incident command system" in the draft we originally sent over. It's based on a Department of Commerce rule and a Washington state statute. Also, it's been approved by the study committee and the Joint Leg. Council already, so we don't have much leeway to alter it.**

If the original draft's language doesn't work, we've come up with some alternative language that starts with the LRB draft language and adds back in some important concepts from the original draft (although our preference is just to go back to the original language):

“Incident command system” means an all-hazards functional management system to control, direct, and manage the roles, responsibilities, and operations of all agencies at the scene of an emergency that involves a multi-jurisdictional or multi-agency response.

3. The word "response" should be inserted after "emergency" on page 6, line 23; page 7, line 19; page 8, line 5. (The emergency might not be multi-jurisdictional, but the response is).

4. On page 7, line 8, "officers and" should be inserted before "employees".

5. The first line in the analysis should be deleted, since no LRB analysis is needed for Joint Leg. Council drafts. However, a line is needed about fiscal estimates.

There were some good suggestions in drafters' notes that we can't really address now since the study committee and Joint Leg. Council have already approved the draft. We can talk with the chair of the Senate standing committee that gets the bill (probably Sen. Brown) to bring to his attention the cross-reference issues for the new bioterrorism threat crime and the issue of reimbursing for damaged clothing and equipment under a mutual aid agreement.

Thanks for your help. Feel free to call me (6-2982) or Pam Shannon (6-2680) if you have any questions.

Dick Sweet

Chapter NR 702

CONTINGENCY PLANNING FOR HAZARDOUS SUBSTANCE DISCHARGE RESPONSE BY STATE AGENCIES

NR 702.01 Purpose.
NR 702.02 Applicability.
NR 702.03 Definitions.

NR 702.05 Contingency plan development.
NR 702.07 Contingency plan amendment and review.
NR 702.09 Contingency plan criteria.

NR 702.01 Purpose. The purpose of this chapter is to establish criteria and procedures for use by the department in developing, establishing and amending a contingency plan, that complements and is consistent with federal, state and local contingency plans. The department's contingency plan is intended to provide for efficient, coordinated and effective response to hazardous substance discharges which may pose an imminent threat to public health, safety or welfare or the environment, and to minimize harmful effects to the air, land and waters of the state. This chapter is adopted pursuant to ss. 227.11 (2) and 292.11, Stats.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; correction made under s. 13.93 (2m) (b) 7, Stats., Register, January, 2001, No. 541.

NR 702.02 Applicability. This chapter applies to the department's development, establishment and amendment of a contingency plan for the undertaking of emergency immediate actions in response to the discharge of hazardous substances, as required by s. 292.11, Stats.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94; correction made under s. 13.93 (2m) (b) 7, Stats., Register, January, 2001, No. 541.

NR 702.03 Definitions. In this chapter, "incident command system" means an organized approach used to effectively control and manage operations at the scene of an emergency immediate action.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94.

NR 702.05 Contingency plan development. (1) The department shall develop and establish a contingency plan for responding to hazardous substance discharges that pose an imminent threat to public health, safety or welfare or the environment, after consulting with local government, federal agencies and other state agencies which may be involved in an emergency immediate action within the state of Wisconsin. The contingency plan shall be developed to be consistent with the overall state emergency operations plan maintained by the division of emergency government. The department's contingency plan shall include all of the following:

- (a) Personnel protection measures.
- (b) Site investigation and documentation procedures.
- (c) Hazardous substance identification procedures.
- (d) Procedures for management of hazardous substances.
- (e) Duties and responsibilities of other state departments and agencies.
- (f) Procedures for restoration of affected lands or waters.

(2) The department may enter into memoranda of understanding with other state agencies or federal or local government agencies, for the purpose of defining roles and responsibilities for haz-

ardous substance discharges that require an emergency immediate action.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94.

NR 702.07 Contingency plan amendment and review. The contingency plan shall be amended by the department when necessary to improve emergency immediate actions in response to a hazardous substance discharge, after consultation with other affected agencies. At a minimum, the contingency plan shall be reviewed by the department at least every 4 years. The department shall maintain records of emergency actions and non-emergency immediate actions taken by the department in response to hazardous substance discharges and these records shall be taken into account when reviewing the contingency plan.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94.

NR 702.09 Contingency plan criteria. The department shall consider all of the following criteria when developing the contingency plan:

(1) At the scene of a hazardous substance discharge, there may be response personnel from several different agencies, with each agency having its own specific responsibilities, authorities and capabilities. In these cases, primary decision-making authority shall rest with the agency having specific authority to deal with the concern of highest priority as ranked in this subsection. All other agencies' roles and activities shall be subordinated until the concern of highest priority is addressed. Subsequent activity then progresses to the agency having authority and the capability to deal with the next most immediate concern. When it is possible to cooperatively address more than one concern at the same time, actions shall be taken simultaneously. In every stage of decision making, the consequence of each decision on the subsequent response activities shall be weighed, and detrimental consequences minimized. Concerns shall be prioritized according to the following ranking:

- (a) Rescue and treatment of injured humans.
- (b) Prevention of injury to humans.
- (c) Protection of potable water supplies.
- (d) Protection of the air, lands or waters of the state.
- (e) Prevention and minimization of damage to human dwellings.
- (f) Protection of agricultural products and domestic animals used for foods.
- (g) Preservation of all indigenous animal and plant species and the quality of habitats of those species.
- (h) Re-establishment of transportation usage.

(2) When deemed appropriate to effectively coordinate all actions at the scene of a hazardous substance discharge, an incident command system shall be implemented.

History: Cr. Register, April, 1994, No. 460, eff. 5-1-94.

that fire fighters authorize to represent their interests in negotiations with fire department managers.

(12) "Fire fighting" means any activity related to controlling and extinguishing an unwanted fire or a fire set for training fire fighters, including any activity that exposes a fire fighter to the danger of heat, flame, smoke or any other product of combustion, explosion or structural collapse, but does not include any activities pertaining to fighting wildland fires.

(13) "Fire vehicle" means any vehicle operated by a fire department, including fire apparatus.

(14) "Hazardous atmosphere" means any atmosphere that is oxygen deficient or that contains a toxic or disease producing contaminant, whether or not it is immediately dangerous to life or health.

(15) "Imminent hazard" means an act or condition that presents a danger to persons or property that is so urgent and severe that it requires immediate corrective or preventive action.

(16) "Incident command system" means an organized system of roles, responsibilities and suggested operating guidelines used to manage and direct emergency operations.

(17) "Member" means a person involved in performing the duties and responsibilities of a fire department, under the auspices of the organization. For the purposes of this chapter, a fire department member:

(a) May be a full-time or part-time employee, or a paid or unpaid volunteer;

(b) May occupy any position or rank within the fire department; and

(c) May or may not engage in emergency operations.

(18) "New", as it relates to s. Comm 30.08, means a person hired, appointed or promoted to a position within an individual fire department after April 1, 1991.

(19) "Occupational illness" means an illness or disease caused or aggravated by serving as a fire fighter.

(20) "Occupational injury" means an injury sustained during the performance of the duties, responsibilities and functions of a fire fighter.

(21) "Officer in command" means a fire fighter assigned to direct emergency operations or manage the activities of a group of fire fighters.

(22) "Service test" means the regular, periodic inspection and testing of apparatus and equipment, according to an established schedule and procedure, to ensure that it is in safe and functional operating condition.

(23) "Special hazard" means a substance, device, event, circumstance or condition that presents an unusual and severe danger to fire fighters or an abnormally high level of fire danger. Special hazards include water rescue, confined space entry, high-angle rescue, and operations requiring specialized training.

(24) "Suggested operating guideline" means an organizational directive that establishes a standard course of action.

(25) "Structural fire fighting" means fire fighting that involves buildings, enclosed structures, enclosed vehicles or enclosed vessels.

History: Cr. Register, August, 1995, No. 476, eff. 9-1-95; CR 01-044: cr. (6h) and (6m), r. (22), Register December 2001 No. 552, eff. 1-1-02.

Subchapter III — Administration and Enforcement

Comm 30.011 Inspections. (1) RIGHT OF ENTRY TO INVESTIGATE OR INSPECT. The authorized representatives of the department, upon presentation of the appropriate credentials to an employer, may:

(a) Enter without delay and at reasonable times any building, place of employment or workplace of a public employer, or an environment where work is performed by an employee of the employer; and

(b) Inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and question privately any employer or employee.

(2) PARTICIPATION IN INSPECTIONS. Pursuant to s. 101.055 (5), Stats., a representative of the employer, an employee, or an employee representative shall be provided an opportunity to accompany a department inspector on any inspection made under this chapter.

(3) REQUESTS FOR INSPECTIONS. (a) Any person who believes a safety or health standard or variance is being violated, or that a situation exists which poses a recognized hazard likely to cause death or serious physical harm, may request the department to conduct an inspection.

(b) If an employee or employee representative requesting an inspection so designates, that person's name may not be disclosed to the employer or any other person, including any state agency except the department.

(c) When determined necessary by the department, a request for inspection shall be made on a form provided by the department.

Note: Copies of the complaint registration form (SBD-192) may be obtained from the Safety and Buildings Division, P.O. Box 7302, Madison, Wisconsin 53707-7302, telephone 608/266-2780 or TTY 608/264-8777. See s. 101.055, Stats., for information regarding the complaint process.

(4) ORDERS. Pursuant to s. 101.055 (6), Stats., the department shall issue orders for violation of this chapter.

History: Cr. Register, August, 1995, No. 476, eff. 9-1-95.

Comm 30.012 Posting department order. Upon issuance of an order of noncompliance, the employer shall post a copy of the order in accordance with s. 101.055 (6) (a) 1., Stats.

History: Cr. Register, August, 1995, No. 476, eff. 9-1-95; CR 01-044: r. and Register December 2001 No. 552, eff. 1-1-02.

Comm 30.013 Variances. Pursuant to s. 101.055 (4), Stats., the department shall consider and may grant a temporary variance, an experimental variance or a permanent variance as specified in s. Comm 3.04 for a safety and health issue affecting public employees.

History: Cr. Register, August, 1995, No. 476, eff. 9-1-95.

Comm 30.014 Notices. Every employer shall post a notice which summarizes the employee's protections and rights as granted under s. 101.055, Stats.

History: Cr. Register, August, 1995, No. 476, eff. 9-1-95.

Comm 30.015 Penalties. Penalties for violations of this chapter may be assessed as specified in s. 101.02, Stats.

Note: Section 101.02 (13) (a), Stats., indicates penalties will be assessed against any employer, employee, owner or other person who fails or refuses to perform any duty lawfully enjoined, within the time prescribed by the department, for which no penalty has been specifically provided, or who fails, neglects or refuses to comply with any lawful order made by the department, or any judgment or decree made by any court in connection with ss. 101.01 to 101.25, Stats. For each such violation, failure or refusal, such employee, owner or other person must forfeit and pay into the state treasury a sum not less than \$10 nor more than \$100 for each violation.

Note: Section 101.02 (12), Stats., indicates that every day during which any person, persons, corporation or any officer, agent or employee thereof, fails to observe and comply with an order of the department will constitute a separate and distinct violation of such order.

History: Cr. Register, August, 1995, No. 476, eff. 9-1-95.

Subchapter IV — Adopted Standards

Comm 30.02 Incorporation of standards by reference. (1) NFPA STANDARDS. The following standards of the National Fire Protection Association, One Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02269-9101 are hereby incorporated by reference into this chapter:

(a) NFPA 1001-1997, Standard for Fire Fighter Professional Qualifications.

(c) The apparatus shall be in the positive-pressure mode when fire department members are working in a hazardous atmosphere.

(d) A closed-circuit type self-contained breathing apparatus shall be approved by the National Institute of Occupation Safety and Health and shall operate in the positive pressure mode only. The supply air tank shall have a minimum service duration of 30 minutes.

Note: The intent of this subsection is to prohibit the use of on demand type breathing apparatus whenever self-contained breathing apparatus is required to be worn.

(4) Compressed gaseous breathing air in a self-contained breathing apparatus cylinder shall meet the requirements of CGA standard G-7.1, with a minimum air quality of Grade D and a water vapor level of less than 25 ppm.

(6) Fire fighters using self-contained breathing apparatus shall operate in teams of 2 or more members who are:

(a) In communication with each other through visual, audible, physical, safety guide rope, electronic or other means to coordinate their activities; and

(b) In close enough proximity to each other to be able to provide assistance in case of an emergency.

History: Cr. Register, August, 1995, No. 476, eff. 9-1-95; CR 01-044: am. (1) (c), r. (5) and (7), Register December 2001 No. 552, eff. 1-1-02.

Comm 30.13 Personal alert safety system; life safety ropes, harnesses and hardware; eye, face and hearing protection. (1) PERSONAL ALERT SAFETY SYSTEMS. Every fire department shall:

(a) Provide every fire fighter using self-contained breathing apparatus involved in rescue, fire fighting or other hazardous duties with a personal alert safety system and require the fire fighter to use the system.

(b) Test every personal alert safety system at least weekly and prior to each use.

(c) Maintain each personal alert safety system according to the instructions of the manufacturer of that system.

(d) Use personal alert safety system devices which meet the standards specified in NFPA 1982.

(2) LIFE SAFETY ROPES, HARNESSES AND HARDWARE. Every fire department shall:

(a) Use life safety ropes, harnesses and hardware which meet the standards specified in NFPA 1983.

(b) Use Class I life safety harnesses for fire fighter attachment to aerial devices.

(c) Use Class II and Class III life safety harnesses for fall arrest and rappelling operations.

(d) Use unused life safety rope to support the weight of any person during rescue, fire fighting and other emergency operations.

(e) Use for training evolutions, life safety rope which is designated training rope if the rope is inspected before and after each use according to the manufacturer's instructions.

(f) Destroy any training rope subjected to impact loading or showing signs of weakness or wear and maintain a written record of the use of each rope.

(3) EYE, FACE AND HEARING PROTECTION. Every fire department shall:

(a) Provide face and eye protection for any fire fighter engaged in fire suppression and other operations involving hazards to the eyes and face whenever the fire fighter's face is not protected by the full facepiece of a self-contained breathing apparatus. Eye and face protection shall comply with s. 29 CFR 1910.133 as adopted by reference in ch. Comm 32.

(b) Provide hearing protection for any fire fighter operating or riding in fire apparatus when subject to noise in excess of 90 dBA.

(c) Provide hearing protection for any fire fighter exposed to noise in excess of 90 dBA from power tools or equipment unless the use of the protective equipment would create an additional

hazard to the fire fighter. Hearing protection shall comply with s. 29 CFR 1910.95 as adopted by reference in ch. Comm 32.

History: Cr. Register, August, 1995, No. 476, eff. 9-1-95; CR 01-044: am. (3) (a) and (c), Register December 2001 No. 552, eff. 1-1-02.

Subchapter IX — Emergency Operations

Comm 30.14 Emergency operations. (1) INCIDENT MANAGEMENT. Every fire department shall:

(a) Conduct emergency operations and other hazardous situations, including training exercises, in a manner to recognize hazards and to prevent accidents and injuries.

(b) Establish an incident command system which has written guidelines applying to all fire fighters involved in emergency operations and which identifies fire fighter roles and responsibilities relating to the safety of operations.

Note: Suggested Operating Guidelines have been developed and published by the Wisconsin technical college system board. Copies of the Suggested Operating Guidelines are available at all technical college district campuses.

(c) Train fire fighters involved in emergency operations in the incident command system established under par. (b) and assign safety responsibilities to supervisory personnel at each level of operations.

(d) Require the officer in command of an emergency operation to be responsible for the overall safety of all fire fighters and activities occurring at the scene of the operation.

(e) Require the officer in command of an emergency operation to establish an organization with sufficient supervisory personnel to control the position and function of all fire fighters operating at the scene of that emergency operation to ensure that safety requirements are satisfied.

(f) Use a standard system to identify and account for the assignment of each fire fighter at the scene of an emergency operation.

(g) At an emergency operation where special hazards exist, require the officer in command to assign qualified personnel with specific responsibility to identify and evaluate hazards and to provide direction with respect to fire fighter safety during the operation.

(2) INCIDENT SAFETY REQUIREMENTS. (a) Every fire department shall:

1. Provide sufficient personnel to safely conduct emergency scene operations and limit such operations to those that can be safely performed by the personnel available at the scene.

2. If inexperienced fire fighters are working at an emergency operation, provide direct supervision by more experienced officers or members.

(b) If any fire fighter is operating at an emergency operation and his or her assignment places him or her in potential contact with motor vehicle traffic, that fire fighter shall wear:

1. The helmet specified under s. Comm 30.11 (2) or alternate protective headgear providing equivalent protection; and

2. A garment with fluorescent retroreflective material.

(3) RESCUE OF MEMBERS. (a) A fire fighter using self-contained breathing apparatus and operating in an interior structural fire shall operate in a team of 2 or more fire fighters. Except in the case of a structural fire which is in the initial or beginning stage and which can be controlled or extinguished by portable fire extinguishers, a back-up team of at least 2 members wearing self-contained breathing apparatus shall be available at the scene for rescue if the need arises. One back-up team member with a charged line shall be committed to a safe non-affected area in or near the structure. The other back-up team member shall remain within voice contact and may be assigned to additional roles so long as this individual is able to perform assistance or rescue activities without jeopardizing the safety or health of any fire fighter working at the scene. In all structural fires in which fire fighters use self-contained breathing apparatus, at least one additional mem-



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1601/P2

RPN/RLR/MES/DAK:cjs:ep

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 AN ACT to renumber 250.07; to amend 20.465 (3) (e), 166.03 (2) (a) 1., 2. and
2 3., 166.03 (5) (a), 166.03 (10) and 250.042 (1); and to create 15.197 (13), 20.435
3 (1) (c), 66.0314, 166.02 (6m) and (6r), 250.07 (1m), 252.06 (10) (c), 947.017 and
4 973.06 (1) (ar) of the statutes; relating to: creating a public health council,
5 reimbursement for quarantine costs, intrastate mutual aid, requiring use of the
6 incident command system in an emergency, exemption from liability during a
7 state of emergency, threats to release or disseminate harmful chemical,
8 biological, or radioactive substances, making appropriations, and providing a
9 penalty.

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

FF-S/L

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

PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on the Public Health System's Response to Terrorism and Public Health Emergencies.

Public Health Council

The bill creates a 17-member Public Health Council in the Department of Health and Family Services (DHFS). The council must include representatives of health care consumers, health care providers, health professions educators, local health departments and boards, public safety agencies, and the Public Health Advisory Committee established by the Secretary of DHFS.

The council is required to advise DHFS, the governor, the legislature, and the public on progress in implementing DHFS's 10-year public health plan and coordination of responses to public health emergencies.

Reimbursement for Quarantine Costs

The bill requires the state to reimburse local health departments for all of their expenses incurred in quarantining a person outside his or her home during a declared state of emergency related to public health and not reimbursed from federal funds.

Reimbursement would be made from one of 2 state sum sufficient appropriations: (1) a DHFS appropriation created in this bill, if the governor has called a state of emergency related to public health under s. 166.03 (1) (b) 1. and has designated DHFS as the lead state agency; or (2) an existing Department of Military Affairs (DMA) appropriation, if the governor has called a state of emergency related to public health under s. 166.03 (1) (b) 1. but has not designated DHFS as the lead state agency.

Intrastate Mutual Aid

The bill establishes a statewide system of mutual aid for emergency management programs, emergency medical services (EMS) programs, fire departments, and local health departments.

Currently, law enforcement agencies are authorized to enter into mutual aid agreements with other law enforcement agencies in the state, under s. 66.0313 (2), stats. The personnel of the agency furnishing assistance are considered employees of the requesting agency while providing assistance. Law enforcement agencies may also enter into mutual aid agreements with law enforcement agencies in adjacent states.

The state is party to a compact for interstate emergency management mutual aid, but there is no specific statutory provision for intrastate emergency management mutual aid. The statutes provide that counties, towns, and municipalities may cooperate through an intergovernmental contract to provide and finance emergency management services and combine offices. Generally, this contracting has been between adjacent counties.

Fire departments throughout the state operate under mutual aid agreements with other in-state fire departments that are not specifically provided for in statutes. These mutual aid agreements appear to fall under the general language of s. 66.0301, stats., which permits municipalities to enter into intergovernmental cooperation agreements. A provision of the Wisconsin administrative code relating to fire department dues provides that a fire department may use mutual aid agreements as a means of providing fire protection services. [s. Comm. 14.48 (1) (b) 1., Wis. Adm. Code.]

Some local fire departments are also parties to interstate fire mutual aid agreements under the general statutory provision authorizing municipal interstate cooperation agreements. [s. 66.0303, stats.]

Under the bill, upon the request of a county, city, village, or town, or a person acting under an incident command system (ICS), the personnel of any emergency management program, EMS program, fire department, or local health department may assist the requester within the requester's jurisdiction, without regard to any other jurisdictional provision. The entity employing the personnel acting in response to a request for assistance is responsible for the personnel-related costs incurred in providing the assistance. The bill defines "incident command system" using language from the definition in s. Comm. 30.01 (16), Wis. Adm. Code, and from the state of Washington's ICS statutes.

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(make similar to spaces on p. 2)

Incident Command System

The bill requires utilization of the ICS in managing emergencies and training of specified personnel in the use of the ICS.

Under current law:

1. Department of Commerce administrative rules governing fire department incident management require that every public sector fire department establish an ICS which has written guidelines applying to all fire fighters involved in emergency operations and which identifies fire fighter roles and responsibilities relating to the safety of operations. These rules define "incident command system" as an organized system of roles, responsibilities, and suggested operating guidelines used to manage and direct emergency operations. Under these rules, fire departments are required to train all fire fighters involved in emergency operations in the ICS and assign safety responsibilities to supervisory personnel at each level of operations. [ss. Comm. 30.14 (1) (a) to (c) and 30.01 (16), Wis. Adm. Code.] A footnote to the incident command rule provision indicates that suggested operating guidelines have been developed and published by the Wisconsin Technical Colleges System Board.

2. Department of Natural Resources administrative rules relating to hazardous substance discharge response provide that when deemed appropriate to effectively coordinate all actions at the scene of a hazardous substance discharge, an ICS shall be implemented. In these rules, "incident command system" is defined as an organized approach used to effectively control and manage operations at the scene of a hazardous substance discharge. [ss. NR 702.09 (2) and 702.03, Wis. Adm. Code].

3. The state Emergency Operations Plan (EOP) developed by the Division of Emergency Management (known as "Wisconsin Emergency Management" or "WEM") provides that an ICS "will be used in disaster response". However, the EOP does not indicate specifically what the ICS system entails or who must use it. The EOP further states that unified command is to be used in situations which affect multiple jurisdictions or multiple agencies within a jurisdiction or which require response by multiple levels of government. The EOP notes that these command and control systems require the participation of the chief elected officials. The EOP also provides that as the lead state agency for direction and control, WEM is to direct and coordinate emergency operations to support incident command at the local level.

At present, there are no statutory provisions pertaining to incident command.

This bill does the following:

1. Defines the term "incident command system", using language from the definition in s. Comm. 30.01 (16), Wis. Adm. Code, and from the State of Washington's incident command statutes.

2. Requires that an incident command system be used by all emergency response agencies, including local health departments, in responding to, managing, and coordinating multi-agency or multi-jurisdiction incidents, when a state or local emergency declaration has been made or in any other emergency situation.

3. Requires the Adjutant General, in developing statewide emergency training and exercise programs, to provide training to officers and employees of local health departments and to elected and appointed local government officials in use of the ICS in managing emergencies. The Adjutant General must consult with DHFS regarding the ICS training for local health department personnel. The bill requires the Adjutant General to utilize federal funding to provide this training, to the extent possible.

Exemption From Liability

Current law provides an exemption from liability for a person who provides equipment or services during a state of emergency declared by the governor for the death of or injury to any person or damage to any property caused by his or her actions. The immunity does not apply if the person acted intentionally or with gross negligence. Under current law, the exemption from liability applies if the person provides the equipment or services under the direction of the governor, the adjutant general, or the head of emergency management services in any county, town, or municipality.

The bill amends the law so that the exemption from liability also applies if the person provides the equipment or services under the direction of DHFS, if that department is designated by the governor as the lead state agency to address a public health emergency, or at the direction of a local health department that is acting as the agent of DHFS.

Chemical, Biological, or Radioactive Substance Threats

The bill prohibits a person from intentionally making a threat to release or disseminate a harmful substance, knowing that the threat is false, if the threat induces a reasonable expectation or fear that the person will release or disseminate a harmful substance. The term "harmful substance" is defined as radioactive material that is harmful to human life, a toxic chemical or its precursor, or a biological agent. A person who violates this prohibition is guilty of a Class I felony, which is punishable by a fine of not more than \$10,000, imprisonment for not more than 3-1/2 years, or both.

The bill further requires that persons who violate this prohibition are to be assessed by the court for moneys expended by a state or local government agency for activities in connection with the threat, including: (1) the response to the threat by emergency medical personnel; (2) the analysis of any substance alleged to be a harmful substance; and (3) the treatment of persons who are alleged to have been exposed to an alleged harmful substance. The moneys assessed are to be reimbursed to the state or local agency that incurred the expense.

1 **SECTION 1.** 15.197 (13) of the statutes is created to read:
2 15.197 (13) PUBLIC HEALTH COUNCIL. There is created in the department of
3 health and family services a public health council consisting of 17 members,
4 nominated by the secretary of health and family services, and appointed for 3-year
5 terms. The council shall include representatives of health care consumers, health
6 care providers, health professions educators, local health departments and boards,
7 public safety agencies, and, if created by the secretary of health and ~~family~~^{family} services
8 under s. 15.04 (1) (c), the public health advisory committee.

9 **SECTION 2.** 20.435 (1) (c) of the statutes is created to read:

1 20.435 (1) (c) *Public health emergency quarantine costs.* A sum sufficient to
2 reimburse local health departments under s. 252.06 (10) (c) 1.

3 **SECTION 3.** 20.465 (3) (e) of the statutes is amended to read:

4 20.465 (3) (e) *Disaster recovery aid; public health emergency quarantine costs.*
5 A sum sufficient to pay the state share of grants to individuals ~~and~~, to make
6 payments to local governments as defined in 42 USC 5122 (6) under federal disaster
7 recovery programs as authorized in s. 166.03 (2) (b) 8., and to reimburse local health
8 departments under s. 252.06 (10) (c) 2.

9 **SECTION 4.** 66.0314 of the statutes is created to read:

10 **66.0314 Emergency management, emergency medical services, fire,**
11 **and local health departments; mutual assistance.** (1) In this section:

12 (a) “Emergency management program” means the emergency management
13 program of a city, village, town, or county, under s. 166.03 (4) (a).

14 (b) “Emergency medical services program” means a program established under
15 s. 146.55.

16 (c) “Fire department” means any public organization engaged in fire fighting
17 or a private sector employer fire company or fire department organized as a nonstock,
18 nonprofit corporation under ch. 181 or ch. 213 without the input of a municipality.

****NOTE: I’m not sure it’s necessary to include private sector entities. Couldn’t
they just contract with local governments? Also, I’m not sure what is meant by the phrase
“without the input of a municipality.”

19 (d) “Incident command system” means ^{functional} a management system established at
20 the scene of an emergency ~~or as close to the scene as possible~~ to control, direct, and
21 manage the roles, responsibilities, and operations of all of the agencies involved in
22 a multi-jurisdictional or multi-agency emergency ^{response}.

23 (e) “Local health department” has the meaning given in s. 250.01 (4).

1 (2) Upon the request of a city, village, town, or county, or a person acting under
 2 an incident command system, the personnel of any emergency management
 3 program, emergency medical services program, fire department, or local health
 4 department may assist the requester within the requester's jurisdiction,
 5 notwithstanding any other jurisdictional provision. The program or department
 6 employing the personnel acting in response to a request for assistance shall be
 7 responsible for any personnel-related costs.

~~Note: What about damage to equipment and clothing? You may wish to add
 a provision similar to s. 66.0513 (2) to this bill.~~

8 **SECTION 5.** 166.02 (6m) and (6r) of the statutes are created to read:

9 166.02 (6m) "Incident command system" means a ^{functional} management system
 10 established at the scene of an emergency ~~or as close to the scene as possible~~ to
 11 control, direct, and manage the roles, responsibilities, and operations of all of the
 12 agencies involved in a multi-jurisdictional or multi-agency emergency ^{response}

13 (6r) "Local health department" has the meaning given in s. 250.01 (4).

14 **SECTION 6.** 166.03 (2) (a) 1., 2. and 3. of the statutes are amended to read:

15 166.03 (2) (a) 1. Subject to approval by the governor, develop and promulgate
 16 a state plan of emergency management for the security of persons and property
 17 which shall be mandatory during a state of emergency. In developing the plan, the
 18 adjutant general shall seek the advice of the department of health and family
 19 services with respect to the emergency medical aspects of the plan. The plan shall
 20 require the use of the incident command system by all emergency response agencies,
 21 including local health departments, during a state of emergency declared under sub.
 22 (1) (b) 1. or s. 166.23 (1) or in any other multi-jurisdictional or multi-agency
 23 emergency ^{response}

1 2. Prescribe and carry out statewide training programs and exercises to
2 develop emergency management proficiency, disseminate information including
3 warnings of enemy action, serve as the principal assistant to the governor in the
4 direction of emergency management activities and coordinate emergency
5 management programs between counties. The training programs shall include
6 training in managing emergency operations utilizing the incident command system
7 for local government officials, officers, and employees whose duties include
8 responding to emergencies, including ^{officers and} employees of local health departments. ^{Remove}
9 adjutant general shall consult with the department of health and family services ^{space}
10 regarding the provision of incident command system training to local health
11 department personnel. To the extent possible, the adjutant general shall utilize
12 federal funding to provide incident command system training.

13 3. Furnish guidance and develop and promulgate standards for emergency
14 management programs for counties, towns and municipalities, and prescribe
15 nomenclature for all levels of emergency management. The standards shall include
16 a requirement that county, town, and municipal emergency management programs
17 under sub. (4) (a) utilize the incident command system during a state of emergency
18 declared under sub. (1) (b) 1. or s. 166.23 (1) or in any other multi-jurisdictional or
19 multi-agency emergency ^{response}

20 **SECTION 7.** 166.03 (5) (a) of the statutes is amended to read:

21 166.03 (5) (a) The head of emergency management services in each county,
22 town and municipality shall for his or her respective county, town or municipality,
23 develop and promulgate emergency management plans consistent with state plans,
24 direct the emergency management program and perform such other duties related
25 to emergency management as are required by the governing body and the emergency

1 management committee of the governing body when applicable. The emergency
2 management plans shall require the use of the incident command system by all
3 emergency response agencies, including local health departments, during a state of
4 emergency declared under sub. (1) (b) 1. or s. 166.23 (1) or in any other
5 multi-jurisdictional or multi-agency emergency response

6 SECTION 8. 166.03 (10) of the statutes is amended to read:

7 166.03 (10) EXEMPTION FROM LIABILITY. No person who provides equipment or
8 services under the direction of the governor, the adjutant general or, the head of
9 emergency management services in any county, town or municipality, the
10 department of health and family services if that department is designated by the
11 governor under s. 166.03 (1) (b) 1., or a local health department acting under s. 251.05
12 (3) (e) during a state of emergency declared by the governor is liable for the death of
13 or injury to any person or damage to any property caused by his or her actions, except
14 where the trier of fact finds that the person acted intentionally or with gross
15 negligence. This subsection does not affect the right of any person to receive benefits
16 to which he or she would otherwise be entitled under the worker's compensation law
17 or under any pension law, nor does it affect entitlement to any other benefits or
18 compensation authorized by state or federal law.

19 SECTION 9. 250.042 (1) of the statutes is amended to read:

20 250.042 (1) If the governor declares a state of emergency related to public
21 health under s. 166.03 (1) (b) 1. and designates the department as the lead state
22 agency to respond to that emergency, the department shall act as the public health
23 authority during the period of the state of emergency. The department shall ensure
24 that the emergency operations during the state of emergency are conducted using the
25 incident command system required under s. 166.03 (2) (a) 1. During the period of the

1 state of emergency, the secretary may designate a local health department as an
2 agent of the department and confer upon the local health department, acting under
3 that agency, the powers and duties of the public health authority.

4 **SECTION 10.** 250.07 of the statutes is renumbered 250.07 (1).

5 **SECTION 11.** 250.07 (1m) of the statutes is created to read:

6 **250.07 (1m)** The public health council shall monitor implementation of any
7 document developed by the department under sub. (1) (a) and shall advise the
8 governor, the legislature, the department, and the public on progress in
9 implementing the document and coordination of responses to public health
10 emergencies.

11 **SECTION 12.** 252.06 (10) (c) of the statutes is created to read:

12 **252.06 (10) (c)** All expenses incurred by a local health department in
13 quarantining a person outside his or her home during a state of emergency related
14 to public health declared by the governor under s. 166.03 (1) (b) 1. and not reimbursed
15 from federal funds shall be paid for under either of the following, as appropriate:

16 1. If the governor designates the department as the lead state agency under s.
17 166.03 (1) (b) 1., from the appropriation under s. 20.435 (1) (c).

18 2. If the governor does not designate the department as the lead state agency
19 under s. 166.03 (1) (b) 1., from the appropriation under s. 20.465 (3) (e).

20 **SECTION 13.** 947.017 of the statutes is created to read:

21 **947.017 Threats to release chemical, biological, or radioactive**
22 **substances.** (1) In this section:

23 (a) "Biological agent" means a microorganism or an infectious substance, or any
24 naturally occurring, bioengineered, or synthesized toxin or component of a

1 microorganism or an infectious substance that is capable of causing death, disease,
2 or other biological malfunction in humans.

3 (b) "Harmful substance" means radioactive material that is harmful to human
4 life, a toxic chemical or its precursor, or a biological agent.

5 (c) "Microorganism" includes a bacterium, virus, fungus, rickettsia, or
6 protozoan.

7 (d) "Precursor" means any chemical reactant that takes part at any stage in the
8 production by whatever method of a toxic chemical.

9 (e) "Toxic chemical" means any chemical that through its chemical action on life
10 processes can cause death, temporary incapacitation, or permanent harm to
11 humans.

12 (2) Whoever, knowing the threat to be false, intentionally threatens to release
13 or disseminate a harmful substance, if the threat induces a reasonable expectation
14 or fear that the person will release or disseminate a harmful substance, is guilty of
15 a Class I felony.

16 **SECTION 14.** 973.06 (1) (ar) of the statutes is created to read:

17 973.06 (1) (ar) If the defendant violated s. 947.017, moneys expended by a state
18 or local government agency in connection with the threat under s. 947.017 (2), to be
19 reimbursed to that agency, including moneys expended for the following activities:

20 1. The response to the threat by emergency medical personnel, as defined in
21 s. 941.37 (1) (c).

22 2. The analysis of any substance alleged to be a harmful substance, as defined
23 in s. 947.017 (1).

24 3. The medical treatment of persons who are alleged to have been exposed to
25 an alleged harmful substance, as defined under s. 947.017 (1).

1 **SECTION 15. Nonstatutory provisions.**

2 (1) PUBLIC HEALTH COUNCIL. Notwithstanding the length of terms specified for
3 the members of the public health council under section 15.197 (13) of the statutes,
4 as created by this act, the initial members of the public health council shall be
5 appointed by the first day of the 4th month beginning after the effective date of this
6 subsection for the following terms:

7 (a) Six members for terms expiring on July 1, 2005.

8 (b) Six members for terms expiring on July 1, 2006.

9 (c) Five members for terms expiring on July 1, 2007.

10

(END)

Nelson, Robert P.

From: Sweet, Richard
Sent: Wednesday, April 09, 2003 3:42 PM
To: Nelson, Robert P.
Cc: Shannon, Pam
Subject: Public health emergencies

Bob:

Thanks for LRB-1601/P2. I think we're ready for a /1 draft, with the following changes:

1. The note on page 5, after line 18, should be deleted.
2. The definition of "incident command system" on page 5, line 19, should be changed so that "established at the scene of an emergency" is deleted; and "at the scene of an emergency" is inserted on line 21, after either "operations" or "agencies". (Same change is needed on page 6, line 8.) The ICS isn't established at the scene of an emergency, but is rather in place before an emergency occurs.

Thanks again for all of your help on this draft.

Dick Sweet
Senior Staff Attorney
Wisconsin Legislative Council
(608)266-2982
richard.sweet@legis.state.wi.us

*4/10 Dick Sweet agreed
that removing "at the scene
of the emergency" from the
definition works*



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1601/12

RPN/RLR/MES/DAK:cjs:gdh

cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SKV

Regen cat

1 AN ACT ~~to renumber~~ 250.07; ~~to amend~~ 20.465 (3) (e), 166.03 (2) (a) 1., 2. and
 2 3., 166.03 (5) (a), 166.03 (10) and 250.042 (1); and ~~to create~~ 15.197 (13), 20.435
 3 (1) (c), 66.0314, 166.02 (6m) and (6r), 250.07 (1m), 252.06 (10) (c), 947.017 and
 4 973.06 (1) (ar) of the statutes; **relating to:** creating a public health council,
 5 reimbursement for quarantine costs, intrastate mutual aid, requiring use of the
 6 incident command system in an emergency, exemption from liability during a
 7 state of emergency, threats to release or disseminate harmful chemical,
 8 biological, or radioactive substances, making appropriations, and providing a
 9 penalty.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* 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:

PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on the Public Health System's Response to Terrorism and Public Health Emergencies.

Public Health Council

The bill creates a 17-member Public Health Council in the Department of Health and Family Services (DHFS). The council must include representatives of health care consumers, health care providers, health professions educators, local health departments and boards, public safety agencies, and the Public Health Advisory Committee established by the Secretary of DHFS.

The council is required to advise DHFS, the governor, the legislature, and the public on progress in implementing DHFS's 10-year public health plan and coordination of responses to public health emergencies.

Reimbursement for Quarantine Costs

The bill requires the state to reimburse local health departments for all of their expenses incurred in quarantining a person outside his or her home during a declared state of emergency related to public health and not reimbursed from federal funds.

Reimbursement would be made from one of 2 state sum sufficient appropriations: (1) a DHFS appropriation created in this bill, if the governor has called a state of emergency related to public health under s. 166.03 (1) (b) 1. and has designated DHFS as the lead state agency; or (2) an existing Department of Military Affairs (DMA) appropriation, if the governor has called a state of emergency related to public health under s. 166.03 (1) (b) 1. but has not designated DHFS as the lead state agency.

Intrastate Mutual Aid

The bill establishes a statewide system of mutual aid for emergency management programs, emergency medical services (EMS) programs, fire departments, and local health departments.

Currently, law enforcement agencies are authorized to enter into mutual aid agreements with other law enforcement agencies in the state, under s. 66.0313 (2), stats. The personnel of the agency furnishing assistance are considered employees of the requesting agency while providing assistance. Law enforcement agencies may also enter into mutual aid agreements with law enforcement agencies in adjacent states.

The state is party to a compact for interstate emergency management mutual aid, but there is no specific statutory provision for intrastate emergency management mutual aid. The statutes provide that counties, towns, and municipalities may cooperate through an intergovernmental contract to provide and finance emergency management services and combine offices. Generally, this contracting has been between adjacent counties.

Fire departments throughout the state operate under mutual aid agreements with other in-state fire departments that are not specifically provided for in statutes. These mutual aid agreements appear to fall under the general language of s. 66.0301, stats., which permits municipalities to enter into intergovernmental cooperation agreements. A provision of the Wisconsin administrative code relating to fire department dues provides that a fire department may use mutual aid agreements as a means of providing fire protection services. [s. Comm. 14.48 (1) (b) 1., Wis. Adm. Code.]

Some local fire departments are also parties to interstate fire mutual aid agreements under the general statutory provision authorizing municipal interstate cooperation agreements. [s. 66.0303, stats.]

Under the bill, upon the request of a county, city, village, or town, or a person acting under an incident command system (ICS), the personnel of any emergency management program, EMS program, fire department, or local health department may assist the requester within the requester's jurisdiction, without regard to any other jurisdictional provision. The entity employing the personnel acting in response to a request for assistance is responsible for the personnel-related costs incurred in providing the assistance. The bill defines "incident command system" using language from the definition in s. Comm. 30.01 (16), Wis. Adm. Code, and from the state of Washington's ICS statutes.

Incident Command System

The bill requires utilization of the ICS in managing emergencies and training of specified personnel in the use of the ICS.

Under current law:

1. Department of Commerce administrative rules governing fire department incident management require that every public sector fire department establish an ICS which has written guidelines applying to all fire fighters involved in emergency operations and which identifies fire fighter roles and responsibilities relating to the safety of operations. These rules define "incident command system" as an organized system of roles, responsibilities, and suggested operating guidelines used to manage and direct emergency operations. Under these rules, fire departments are required to train all fire fighters involved in emergency operations in the ICS and assign safety responsibilities to supervisory personnel at each level of operations. [ss. Comm. 30.14 (1) (a) to (c) and 30.01 (16), Wis. Adm. Code.] A footnote to the incident command rule provision indicates that suggested operating guidelines have been developed and published by the Wisconsin Technical Colleges System Board.

2. Department of Natural Resources administrative rules relating to hazardous substance discharge response provide that when deemed appropriate to effectively coordinate all actions at the scene of a hazardous substance discharge, an ICS shall be implemented. In these rules, "incident command system" is defined as an organized approach used to effectively control and manage operations at the scene of a hazardous substance discharge. [ss. NR 702.09 (2) and 702.03, Wis. Adm. Code].

3. The state Emergency Operations Plan (EOP) developed by the Division of Emergency Management (known as "Wisconsin Emergency Management" or "WEM") provides that an ICS "will be used in disaster response". However, the EOP does not indicate specifically what the ICS system entails or who must use it. The EOP further states that unified command is to be used in situations which affect multiple jurisdictions or multiple agencies within a jurisdiction or which require response by multiple levels of government. The EOP notes that these command and control systems require the participation of the chief elected officials. The EOP also provides that as the lead state agency for direction and control, WEM is to direct and coordinate emergency operations to support incident command at the local level.

At present, there are no statutory provisions pertaining to incident command.

This bill does the following:

1. Defines the term "incident command system", using language from the definition in s. Comm. 30.01 (16), Wis. Adm. Code, and from the State of Washington's incident command statutes.

2. Requires that an incident command system be used by all emergency response agencies, including local health departments, in responding to, managing, and coordinating multi-agency or multi-jurisdiction incidents, when a state or local emergency declaration has been made or in any other emergency situation.

3. Requires the Adjutant General, in developing statewide emergency training and exercise programs, to provide training to officers and employees of local health departments and to elected and appointed local government officials in use of the ICS in managing emergencies. The Adjutant General must consult with DHFS regarding the ICS training for local health department personnel. The bill requires the Adjutant General to utilize federal funding to provide this training, to the extent possible.

Exemption From Liability

Current law provides an exemption from liability for a person who provides equipment or services during a state of emergency declared by the governor for the death of or injury to any person or damage to any property caused by his or her actions. The immunity does not apply if the person acted intentionally or with gross negligence. Under current law, the exemption from liability applies if the person provides the equipment or services under the direction of the governor, the adjutant general, or the head of emergency management services in any county, town, or municipality.

The bill amends the law so that the exemption from liability also applies if the person provides the equipment or services under the direction of DHFS, if that department is designated by the governor as the lead state agency to address a public health emergency, or at the direction of a local health department that is acting as the agent of DHFS.

Chemical, Biological, or Radioactive Substance Threats

The bill prohibits a person from intentionally making a threat to release or disseminate a harmful substance, knowing that the threat is false, if the threat induces a reasonable expectation or fear that the person will release or disseminate a harmful substance. The term "harmful substance" is defined as radioactive material that is harmful to human life, a toxic chemical or its precursor, or a biological agent. A person who violates this prohibition is guilty of a Class I felony, which is punishable by a fine of not more than \$10,000, imprisonment for not more than 3-1/2 years, or both.

The bill further requires that persons who violate this prohibition are to be assessed by the court for moneys expended by a state or local government agency for activities in connection with the threat, including: (1) the response to the threat by emergency medical personnel; (2) the analysis of any substance alleged to be a harmful substance; and (3) the treatment of persons who are alleged to have been exposed to an alleged harmful substance. The moneys assessed are to be reimbursed to the state or local agency that incurred the expense.

1 **SECTION 1.** 15.197 (13) of the statutes is created to read:
2 **15.197 (13) PUBLIC HEALTH COUNCIL.** There is created in the department of
3 health and family services a public health council consisting of 17 members,
4 nominated by the secretary of health and family services, and appointed for 3-year
5 terms. The council shall include representatives of health care consumers, health
6 care providers, health professions educators, local health departments and boards,
7 public safety agencies, and, if created by the secretary of health and family services
8 under s. 15.04 (1) (c), the public health advisory committee.

9 **SECTION 2.** 20.435 (1) (c) of the statutes is created to read:

1 20.435 (1) (c) *Public health emergency quarantine costs.* A sum sufficient to
2 reimburse local health departments under s. 252.06 (10) (c) 1.

3 **SECTION 3.** 20.465 (3) (e) of the statutes is amended to read:

4 20.465 (3) (e) *Disaster recovery aid; public health emergency quarantine costs.*

5 A sum sufficient to pay the state share of grants to individuals and, to make
6 payments to local governments as defined in 42 USC 5122 (6) under federal disaster
7 recovery programs as authorized in s. 166.03 (2) (b) 8., and to reimburse local health
8 departments under s. 252.06 (10) (c) 2.

9 **SECTION 4.** 66.0314 of the statutes is created to read:

10 **66.0314 Emergency management, emergency medical services, fire,**
11 **and local health departments; mutual assistance.** (1) In this section:

12 (a) “Emergency management program” means the emergency management
13 program of a city, village, town, or county, under s. 166.03 (4) (a).

14 (b) “Emergency medical services program” means a program established under
15 s. 146.55.

16 (c) “Fire department” means any public organization engaged in fire fighting
17 or a private sector employer fire company or fire department organized as a nonstock,
18 nonprofit corporation under ch. 181 or ch. 213 without the input of a municipality.

X

****NOTE: I'm not sure it's necessary to include private sector entities. Couldn't they just contract with local governments? Also, I'm not sure what is meant by the phrase "without the input of a municipality."

19 (d) “Incident command system” means a functional management system
20 established ~~at the scene of an emergency~~ to control, direct, and manage the roles,
21 responsibilities, and operations of all of the agencies involved in a
22 multi-jurisdictional or multi-agency emergency response.

23 (e) “Local health department” has the meaning given in s. 250.01 (4).

1 (2) Upon the request of a city, village, town, or county, or a person acting under
2 an incident command system, the personnel of any emergency management
3 program, emergency medical services program, fire department, or local health
4 department may assist the requester within the requester's jurisdiction,
5 notwithstanding any other jurisdictional provision. The program or department
6 employing the personnel acting in response to a request for assistance shall be
7 responsible for any personnel-related costs.

8 **SECTION 5.** 166.02 (6m) and (6r) of the statutes are created to read:

9 166.02 (6m) "Incident command system" means a functional management
10 system established ~~at the scene of an emergency~~ to control, direct, and manage the
11 roles, responsibilities, and operations of all of the agencies involved in a
12 multi-jurisdictional or multi-agency emergency response.

13 (6r) "Local health department" has the meaning given in s. 250.01 (4).

14 **SECTION 6.** 166.03 (2) (a) 1., 2. and 3. of the statutes are amended to read:

15 166.03 (2) (a) 1. Subject to approval by the governor, develop and promulgate
16 a state plan of emergency management for the security of persons and property
17 which shall be mandatory during a state of emergency. In developing the plan, the
18 adjutant general shall seek the advice of the department of health and family
19 services with respect to the emergency medical aspects of the plan. The plan shall
20 require the use of the incident command system by all emergency response agencies,
21 including local health departments, during a state of emergency declared under sub.
22 (1) (b) 1. or s. 166.23 (1) or in any other multi-jurisdictional or multi-agency
23 emergency response.

24 2. Prescribe and carry out statewide training programs and exercises to
25 develop emergency management proficiency, disseminate information including

1 warnings of enemy action, serve as the principal assistant to the governor in the
2 direction of emergency management activities and coordinate emergency
3 management programs between counties. The training programs shall include
4 training in managing emergency operations utilizing the incident command system
5 for local government officials, officers, and employees whose duties include
6 responding to emergencies, including officers and employees of local health
7 departments. The adjutant general shall consult with the department of health and
8 family services regarding the provision of incident command system training to local
9 health department personnel. To the extent possible, the adjutant general shall
10 utilize federal funding to provide incident command system training.

11 3. Furnish guidance and develop and promulgate standards for emergency
12 management programs for counties, towns and municipalities, and prescribe
13 nomenclature for all levels of emergency management. The standards shall include
14 a requirement that county, town, and municipal emergency management programs
15 under sub. (4) (a) utilize the incident command system during a state of emergency
16 declared under sub. (1) (b) 1. or s. 166.23 (1) or in any other multi-jurisdictional or
17 multi-agency emergency response.

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19 166.03 (5) (a) The head of emergency management services in each county,
20 town and municipality shall for his or her respective county, town or municipality,
21 develop and promulgate emergency management plans consistent with state plans,
22 direct the emergency management program and perform such other duties related
23 to emergency management as are required by the governing body and the emergency
24 management committee of the governing body when applicable. The emergency
25 management plans shall require the use of the incident command system by all

1 emergency response agencies, including local health departments, during a state of
2 emergency declared under sub. (1) (b) 1. or s. 166.23 (1) or in any other
3 multi-jurisdictional or multi-agency emergency response.

4 SECTION 8. 166.03 (10) of the statutes is amended to read:

5 166.03 (10) EXEMPTION FROM LIABILITY. No person who provides equipment or
6 services under the direction of the governor, the adjutant general or, the head of
7 emergency management services in any county, town or municipality, the
8 department of health and family services if that department is designated by the
9 governor under s. 166.03 (1) (b) 1., or a local health department acting under s. 251.05
10 (3) (e) during a state of emergency declared by the governor is liable for the death of
11 or injury to any person or damage to any property caused by his or her actions, except
12 where the trier of fact finds that the person acted intentionally or with gross
13 negligence. This subsection does not affect the right of any person to receive benefits
14 to which he or she would otherwise be entitled under the worker's compensation law
15 or under any pension law, nor does it affect entitlement to any other benefits or
16 compensation authorized by state or federal law.

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18 250.042 (1) If the governor declares a state of emergency related to public
19 health under s. 166.03 (1) (b) 1. and designates the department as the lead state
20 agency to respond to that emergency, the department shall act as the public health
21 authority during the period of the state of emergency. The department shall ensure
22 that the emergency operations during the state of emergency are conducted using the
23 incident command system required under s. 166.03 (2) (a) 1. During the period of the
24 state of emergency, the secretary may designate a local health department as an

1 agent of the department and confer upon the local health department, acting under
2 that agency, the powers and duties of the public health authority.

3 **SECTION 10.** 250.07 of the statutes is renumbered 250.07 (1).

4 **SECTION 11.** 250.07 (1m) of the statutes is created to read:

5 250.07 (1m) The public health council shall monitor implementation of any
6 document developed by the department under sub. (1) (a) and shall advise the
7 governor, the legislature, the department, and the public on progress in
8 implementing the document and coordination of responses to public health
9 emergencies.

10 **SECTION 12.** 252.06 (10) (c) of the statutes is created to read:

11 252.06 (10) (c) All expenses incurred by a local health department in
12 quarantining a person outside his or her home during a state of emergency related
13 to public health declared by the governor under s. 166.03 (1) (b) 1. and not reimbursed
14 from federal funds shall be paid for under either of the following, as appropriate:

15 1. If the governor designates the department as the lead state agency under s.
16 166.03 (1) (b) 1., from the appropriation under s. 20.435 (1) (c).

17 2. If the governor does not designate the department as the lead state agency
18 under s. 166.03 (1) (b) 1., from the appropriation under s. 20.465 (3) (e).

19 **SECTION 13.** 947.017 of the statutes is created to read:

20 **947.017 Threats to release chemical, biological, or radioactive**
21 **substances. (1)** In this section:

22 (a) “Biological agent” means a microorganism or an infectious substance, or any
23 naturally occurring, bioengineered, or synthesized toxin or component of a
24 microorganism or an infectious substance that is capable of causing death, disease,
25 or other biological malfunction in humans.

1 (b) “Harmful substance” means radioactive material that is harmful to human
2 life, a toxic chemical or its precursor, or a biological agent.

3 (c) “Microorganism” includes a bacterium, virus, fungus, rickettsia, or
4 protozoan.

5 (d) “Precursor” means any chemical reactant that takes part at any stage in the
6 production by whatever method of a toxic chemical.

7 (e) “Toxic chemical” means any chemical that through its chemical action on life
8 processes can cause death, temporary incapacitation, or permanent harm to
9 humans.

10 (2) Whoever, knowing the threat to be false, intentionally threatens to release
11 or disseminate a harmful substance, if the threat induces a reasonable expectation
12 or fear that the person will release or disseminate a harmful substance, is guilty of
13 a Class I felony.

14 **SECTION 14.** 973.06 (1) (ar) of the statutes is created to read:

15 973.06 (1) (ar) If the defendant violated s. 947.017, moneys expended by a state
16 or local government agency in connection with the threat under s. 947.017 (2), to be
17 reimbursed to that agency, including moneys expended for the following activities:

18 1. The response to the threat by emergency medical personnel, as defined in
19 s. 941.37 (1) (c).

20 2. The analysis of any substance alleged to be a harmful substance, as defined
21 in s. 947.017 (1).

22 3. The medical treatment of persons who are alleged to have been exposed to
23 an alleged harmful substance, as defined under s. 947.017 (1).

24 **SECTION 15. Nonstatutory provisions.**

Barman, Mike

From: Barman, Mike
Sent: Monday, April 14, 2003 11:41 AM
To: Shannon, Pam
Subject: LRB-1601/1 (attached - from RPN)



03-1601/1

Mike Barman

Mike Barman - Senior Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

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