

CHAPTER 435

AN ACT to create 22.08 of the statutes, relating to provision, in the event of an emergency resulting from an enemy action in the form of an attack, for the continuity of the executive functions of the government of the state and its political subdivisions by providing for additional officers who can act as governor; by providing for emergency interim succession to other executive offices of the state and its political subdivisions; and by authorizing political subdivisions to enact resolutions and ordinances relating to the subject.

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

22.08 of the statutes is created to read:

22.08 SUCCESSION TO OFFICE. (1) DECLARATION OF POLICY. Because of the possibility of enemy attack upon the United States of unprecedented destructiveness, it is determined and declared to be necessary to assure the continuity and effective operation of the governments of this state and of its political subdivisions, in the event of such attack, by providing for additional persons who can temporarily exercise the powers and discharge the duties of state and local offices.

(2) DEFINITIONS. As used in this section unless the context clearly required otherwise:

(a) "Unavailable" means that during an emergency resulting from enemy action in the form of an attack, either a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of an office because of a vacancy, and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

(b) "Emergency interim successor" means a person designated pursuant to this section, if the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the constitution, statutes, charters, and ordinances or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(c) "Office" includes all state and local offices, the powers and duties of which are defined by the constitution, statutes, charters and ordinances, except the office of governor, and except those in the legislature and the judiciary. An "officer" is a person who holds an office.

(d) "Attack" means any action taken by an enemy of the United States causing, or which may cause, substantial damage or injury to persons or property in the state of Wisconsin in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological or biological means or other weapons or methods.

(e) "Political subdivision" includes counties, cities, towns, villages, special districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(3) EMERGENCY INTERIM SUCCESSORS TO OFFICE OF GOVERNOR. If the governor is unavailable, and if the lieutenant governor and the secretary of state are unavailable, the attorney general, state treasurer, speaker of the assembly, and the president pro tempore of the senate shall, in the order named, if the preceding named officers are unavailable, exercise the powers and discharge the duties of the office of governor until a new gov-

ernor is elected and qualified, or until a preceding named officer becomes available; but no emergency interim successor to the aforementioned offices may serve as governor.

(4) **EMERGENCY INTERIM SUCCESSORS FOR STATE OFFICERS.** All state officers, subject to such regulations as the governor (or other official authorized under the constitution or this section to exercise the powers and discharge the duties of the office of governor) may issue, shall, upon approval of this section, in addition to any deputy authorized pursuant to law to exercise all of the powers and discharge the duties of the office, designate by title emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this section to ensure their current status. The officer shall designate a sufficient number of such emergency interim successors so that there will be not less than 3 nor more than 7 such deputies or emergency interim successors or any combination thereof, at any time. If any state officer is unavailable following an attack, and if his deputy, if any, is also unavailable, the powers of his office shall be exercised and the duties of his office shall be discharged by his designated emergency interim successors in the order specified. Such emergency interim successors shall exercise said powers and discharge said duties only until such time as the governor under the constitution or authority other than this section or other official authorized under the constitution or this section to exercise the powers and discharge the duties of the office of governor may, where a vacancy exists, appoint a successor to fill the vacancy or until a successor is otherwise appointed, or elected and qualified as provided by law; or an officer or his deputy or a preceding named emergency interim successor becomes available to exercise, or resume the exercise of, the powers and discharge the duties of his office.

(5) **ENABLING AUTHORITY FOR EMERGENCY INTERIM SUCCESSORS FOR LOCAL OFFICES.** With respect to local offices for which the governing bodies of political subdivisions may enact resolutions or ordinances relative to the manner in which vacancies will be filled or temporary appointments to office made, such governing bodies are hereby authorized to enact resolutions or ordinances providing for emergency interim successors to offices of the aforementioned governmental units. Such resolutions and ordinances shall not be inconsistent with the provisions of this section.

(6) **EMERGENCY INTERIM SUCCESSORS FOR LOCAL OFFICERS.** This section shall be applicable to officers of all political subdivisions not included in sub. (5). Such officers, subject to such regulations as the executive head of the political subdivision may issue, shall upon approval of this section, designate by title, if feasible, or by named person, emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this section to ensure their current status. The officer shall designate a sufficient number of persons so that there will be not less than 3 nor more than 7 deputies or emergency interim successors or any combination thereof at any time. If any officer of any political subdivision or his deputy provided for pursuant to law is unavailable, the powers of the office shall be exercised and duties shall be discharged by his designated emergency interim successors in the order specified. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist shall be filled in accordance with the constitution or statutes or until the officer or his deputy or a preceding emergency interim successor again becomes available to exercise the powers and discharge the duties of his office.

(7) **STATUS AND QUALIFICATIONS OF DESIGNEES.** No person shall be designated or serve as an emergency interim successor unless he is eligible under the constitution and statutes to hold the office to which powers and

duties he is designated to succeed, but no constitutional or statutory provision prohibiting local or state officials from holding another office shall be applicable to an emergency interim successor.

(8) FORMALITIES OF TAKING OFFICE. Emergency interim successors shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. No person, as a prerequisite to the exercise of the powers or discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office.

(9) PERIOD IN WHICH AUTHORITY MAY BE EXERCISED. Officials authorized to act as governor pursuant to this section and emergency interim successors are empowered to exercise the powers and discharge the duties of an office as herein authorized only during the continuance of an emergency resulting from enemy action in the form of an attack. The legislature, by joint resolution, may at any time terminate the authority of said emergency interim successors to exercise the powers and discharge the duties of office as herein provided.

(10) REMOVAL OF DESIGNEES. Until such time as the persons designated as emergency interim successors are authorized to exercise the powers and discharge the duties of an office in accordance with this section, said persons shall serve in their designated capacities at the pleasure of the designating authority and may be removed or replaced by said designating authority at any time, with or without cause.

(11) DISPUTES. Any dispute concerning a question of fact arising under this section with respect to an office in the executive branch of the state government, except a dispute of fact relative to the office of governor, shall be adjudicated by the governor or other official authorized under the constitution or this section to exercise the powers and discharge the duties of the office of governor and his decision shall be final.

Approved September 5, 1961.
