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Wisconsin Emergency Management and Homeland Security Statutory Authorities Summarized

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Summary

The governor of Wisconsin is responsible for state emergency management activities, and the adjutant general serves as the lead administrator. The adjutant general is authorized to refuse to provide grants to units of local governments until emergency management plans are implemented and updated. Dependents of employees or volunteers who die in service during a state of emergency are eligible for death benefits. "Responsible persons" (including the federal government) are liable for harm caused by nuclear incidents.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

Entities with Key Responsibilities

Governor: The governor reviews orders that establish and alter “emergency management areas,” reviews state emergency management plans, and employs the state Division of Emergency Management (DEM) during a state of emergency. During an emergency the governor issues orders, determines the responsibility of state departments and agencies, and directs them to use staff, facilities, supplies, equipment. The governor: determines the priority of emergency management contracts; allocates material and facilities; takes, uses, or destroys private property for emergency management purposes (with actions recorded if needed for later claims charged against the state); issues orders for the security of people and property; contracts with any person to provide equipment and services for disaster relief; and suspends rules during a public health emergency if strict compliance would affect emergency response and increase the threat to public health (Wis. Stat. §166.03 (1)).

Adjutant general: The adjutant general develops and promulgates a state emergency management plan for the security of persons and property — subject to the governor’s approval and in consultation with the Department of Health and Family Services (HFS). The plan is mandatory during a state of emergency and must include standards for equipment and personnel, and require the use and specification of the “incident command system.” The statute directs the adjutant general to establish a statewide training program and exercises, disseminate information (including information on “enemy action”), and serve as primary assistant to the governor in the direction of emergency management activities and the coordination of emergency management among counties. The adjutant general: provides guidance and standards for counties, towns, municipalities, and emergency management programs; may withhold or recover grants pursuant to the statute; and provides assistance to the civil air patrol. If HFS is not the lead agency in a public health emergency, the adjutant general must submit a report to the legislature and governor. The adjutant general: divides the state into emergency management areas (by county) and appoints agency heads; designates highway routes for emergency management that can be closed to all but emergency vehicles for training and exercises; prescribes traffic routes during a state of emergency; organizes and trains mobile support units; asks HFS to inspect radiological waste shipments; assesses and collects contributions for costs to establish and maintain radiological emergency response plans; pays the state’s share of grants to individuals; and provides the state share of contributions to local governments for major disaster recovery assistance (Wis. Stat. §166.03 (2)).

Department of Health and Family Services (HFS): The department consults with the adjutant general about emergency medical aspects of the state emergency management plan (Wis. Stat. §166.03 (2)).

Area head: “Area heads of emergency management” exercise the powers and duties delegated and assigned by the adjutant general (Wis. Stat. §166.03 (3)).

Governing body of county, town, municipality: Governing bodies adopt emergency management programs consistent with the state emergency management plans and, except for counties with county executives, appoint administrators of emergency management services. Governing bodies are authorized to appropriate funds and levy taxes for their emergency management program (Wis. Stat. §166.03 (4)).

Political subdivisions: Governing bodies of political subdivisions adopt emergency management programs consistent with the state plan. Counties with county executives designate emergency management committees with policy and rule-making powers for emergency management plans and programs (Wis. Stat. §166.03 (4)).

Head of emergency management services: In each county, town, and municipality the official designated as the head of services develops and promulgates emergency management plans consistent with the state plan, directs the local program, and performs other related duties. The heads of services in towns and municipalities must coordinate and assist in developing plans within their jurisdictions and integrate them with county plans and submit reports to the adjutant general. Heads of services are also responsible for directing training and participation in exercises (Wis. Stat. §166.03 (5)).

Local emergency planning committee (LEPC): Each county board creates an LEPC pursuant to federal statute (42 USC 11001), submits an annual list of LEPC members to the state, appropriates funds for committee operations, and implements a training program to prepare for the accidental release of hazardous substances (Wis. Stat. §59.54 (8)).

Preparedness

An emergency planning grant program helps communities prepare hazardous material response plans (Wis. Stat. §166.21).

See also “Entities with Key Responsibilities.”

Declaration Procedures

The governor may proclaim a state of emergency for the state, or a portion of the state. Such a proclamation must state whether the emergency results from enemy action, natural, or a man-made disaster. If a public health emergency exists, the governor may declare that a public health state of emergency exists and designates HFS as the lead agency. A state of emergency cannot exceed 60 days if caused by enemy action or 30 days if caused by a natural or man-made disaster, unless extended by joint resolution of the legislature. The declaration may be revoked at the discretion of the governor by written order or by joint legislative resolution (Wis. Stat. §166.03 (b) 1).

The governing bodies of cities, villages, and towns may declare an emergency by ordinance or resolution when conditions of war, flood, heavy snow storm, blizzard, disaster, riot, acts of God, or other causes impair transportation, food, fuel, medical care, first responders, and other vital facilities. The period of emergency is to be limited to the time that emergency conditions exist. During an emergency, governing bodies may prohibit traffic on local highways and establish penalties. If a governing body is unable to promptly meet, the chief executive officer is authorized to proclaim all powers needed. Such a proclamation may be ratified, altered or repealed by the governing body when it meets (Wis. Stat. §166.23).

Types of Assistance

The state Department of Workforce Development is authorized to administer disaster unemployment assistance when it is made available by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121) (Wis. Stat. §108.145).

Mutual Aid

The governor is authorized to enter the state into emergency mutual aid agreements with other states (Wis. Stat. §166.03 (b)2).

The Emergency Management Assistance Compact is codified (Wis. Stat. §166.30).

Funding

The governor is authorized to accept or authorize a state agency, county, or town to accept gifts and grants for emergency management purposes (Wis. Stat. §166.03 (b) 3).

Hazard Mitigation

No specific provisions.

Continuity of Government Operations

During a state of emergency the governor designates an emergency temporary location for the seat of government when required and provides for an orderly transition. The temporary seat of government remains in use until the governor establishes a new location, or until the emergency ends and the seat of government returns to its normal location. All acts completed by officials at the temporary seat of government are valid (Wis. Stat. §166.05).

A local government body of a county, town, or municipality may move to a temporary seat of government within or without the territorial limits on the call of the presiding officer. The governing body may establish substitute sites by ordinance (Wis. Stat. §166.06).

The governing body of a unit of local government may enact ordinances for the continuity of government in the event a state of emergency occurs from enemy attack (Wis. Stat. §166.07).

The public records board is charged with establishment of a system to preserve essential public records for the continuity of government in the event of an enemy attack, natural, or man-made disaster. Each department is to preserve essential records. The board advises political subdivisions with regard to the establishment of such a system (Wis. Stat. §166.10).

Other

Political subdivisions of a specified size are required to install a teletypewriter in the sheriff's department to receive calls from hearing or speech impaired persons seeking emergency services (Wis. Stat. §59.54 (5)).

The adjutant general may refuse to approve grant applications if a political subdivision does not comply with requirements to establish or maintain an emergency management organization. If grants or equipment are improperly used, the general may refuse to make additional grants until the political subdivision is in compliance with the previous grant (Wis. Stat. §166.03 (13)).

The dependents of employees or volunteers who sustain fatal injuries during a state of emergency are eligible to receive death benefits (Wis. Stat. §102.475).

Persons or organizations, including the federal government, are liable for nuclear incidents resulting from a release from a nuclear waste repository (Wis. Stat. §166.15).

A public health authority can issue and enforce orders to provide for the reasonable and safe disposal of human remains when the governor issues a public health state of emergency (Wis. Stat. §157.055).

Any person may operate a vehicle without regard to motor vehicle registration laws and without fear of arrest in response to an official request during a state of emergency (Wis. Stat. §166.03 (6)).

Emergency management staff cannot participate in political activity, interfere with a labor dispute, or personally advocate the use of force or violence to change the federal or state government (Wis. Stat. §166.03 (8)).

A person who provides equipment or services at the direction of the governor, the adjutant general, or the head of emergency management services during a state of emergency, is exempt from liability for death or injury to a person or damage to property (excludes gross negligence) (Wis. Stat. §166.03 (10)).

During a state of emergency, any peace or traffic officer is authorized to operate anywhere in the state under the direction of the adjutant general through the appropriate county sheriff (Wis. Stat. §166.03 (11)).

The statute does not affect the responsibility of the American Red Cross as authorized by Congress (Wis. Stat. §166.03 (12)).

A person owning real estate who voluntarily and without compensation provides shelter during a real or practice attack is not liable for death, injury, or loss or damage to property. However, the person must make known any hidden dangers on the property (Wis. Stat. §166.09).

A regional emergency response team and others that contract to provide services have immunity from civil liability (Wis. Stat. §895.483).

Key Terms

Table 1. Key Emergency Management and Homeland Security Terms Defined in Wisconsin Statutes, with Citations

| Terms | Citations |
|----------------------------------|-----------------------------|
| Adjutant general | Wis. Stat. §166.02 (1g) |
| Attack | Wis. Stat. §166.02 (10) |
| Biological agent | Wis. Stat. §166.02 (1p) |
| Bioterrorism | Wis. Stat. §166.02 (1r) |
| Chemical agent | Wis. Stat. §166.02 (1t) |
| Civil defense | Wis. Stat. §166.02 (2) |
| Emergency interim successor | Wis. Stat. §166.08 (2)(b) |
| Emergency management | Wis. Stat. §166.02 (4) |
| Emergency provider | Wis. Stat. §166.15 (1) (d) |
| Enemy action | Wis. Stat. §166.02 (5) |
| Facility plan | Wis. Stat. §166.21 (1) |
| Hazardous chemical | Wis. Stat. §166.20 (1)(f) |
| Hazardous material | Wis. Stat. §166.20 (1)(fm) |
| Hazardous substance | Wis. Stat. §166.20 (1)(g) |
| Local emergency response team | Wis. Stat. §166.20 (1)(gk) |
| Public health emergency | Wis. Stat. §166.02 (7) |
| Radiological agent | Wis. Stat. §166.02 (8) |
| Regional emergency response team | Wis. Stat. §166.20 (1) (im) |

For Further Research

The citations noted above and other elements of the state code for Wisconsin may be searched at: [<http://www.legis.state.wi.us/nav/wislaw.htm>].