



State of Wisconsin
2009 - 2010 LEGISLATURE

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2009 SENATE BILL 226

June 4, 2009 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection.

1 **AN ACT** *to repeal* chapter 166 (title), 166.02 (2), 166.02 (5), 166.02 (6u), 166.03
2 (title), 166.03 (1) (title) and (a) (intro.), 166.03 (2) (title), 166.03 (2) (a) 4., 166.03
3 (3), 166.03 (5) (title), 166.03 (7) (title), 166.03 (7) (c), 166.06 (3), 166.08 (1),
4 166.08 (2) (a), 166.08 (5), 166.08 (6) (title), 166.10 (intro.), 166.20 (1) (fm), 166.20
5 (1) (gm), 166.20 (1) (im), 166.20 (5) (b), 166.20 (9) (e), 166.23 (title), 250.042 (4)
6 (a) (intro.) and 250.042 (4) (c); **to renumber** 166.01 (title), 166.02 (intro.),
7 166.02 (1g), 166.02 (1m), 166.02 (1p), 166.02 (1r), 166.02 (3), 166.02 (6m),
8 166.02 (6r), 166.02 (7), 166.03 (1) (a) 1., 166.03 (1) (b) 2., 166.03 (2) (a) 5., 166.03
9 (2) (b) 3., 166.03 (2) (b) 4., 166.03 (2) (b) 7., 166.05 (title), 166.10 (1) to (5), 166.15
10 (title), 166.15 (1) (intro.), (a), (b), (c) and (d), 166.15 (1) (f) to (k), (2), (3), (4) and
11 (5), 166.20 (title), 166.20 (1) (b) and (c), 166.20 (1) (e) and (f), 166.20 (1) (g),
12 166.20 (1) (gi), 166.20 (1) (h) and (i), 166.20 (1) (k), 166.20 (2) (b), 166.20 (2) (c),
13 166.20 (2) (e), 166.20 (2) (f), 166.20 (3) (a), 166.20 (5) (title), 166.20 (5) (a) 1., 2.
14 and 3., 166.20 (5m) and (6), 166.20 (7) (title), 166.20 (9) (title), 166.20 (9) (b),
15 166.20 (9) (c) 1., 166.20 (10), 166.21 (title), 166.21 (1) (title), 166.21 (2m) (intro.)
16 and (a) to (e), 166.215 (title), 166.215 (3) (a), 166.215 (3) (b), 166.22 (title),

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1 166.22 (2), 166.22 (4) (a), 166.22 (5), 166.22 (6), 166.30, 250.042 (4) (a) 2. and
2 250.042 (4) (a) 3m.; ***to renumber and amend*** 16.61 (3) (d), 94.77, 166.01,
3 166.02 (1t), 166.02 (4), 166.02 (8), 166.03 (1) (a) 2., 166.03 (1) (a) 3., 166.03 (1)
4 (a) 4., 166.03 (1) (b) 3., 166.03 (1) (b) 4., 166.03 (1) (b) 5., 166.03 (1) (b) 6., 166.03
5 (1) (b) 8., 166.03 (2) (a) (intro.), 166.03 (2) (a) 1., 166.03 (2) (a) 2., 166.03 (2) (a)
6 3., 166.03 (2) (a) 6., 166.03 (2) (b) (intro.), 166.03 (2) (b) 1., 166.03 (2) (b) 2.,
7 166.03 (2) (b) 5., 166.03 (2) (b) 6., 166.03 (2) (b) 8., 166.03 (2) (b) 9., 166.03 (4)
8 (title), 166.03 (4) (a), 166.03 (4) (b), 166.03 (4) (c), 166.03 (4) (d), 166.03 (5) (a),
9 166.03 (5) (b), 166.03 (5) (c), 166.03 (5) (d), 166.03 (5a), 166.03 (6), 166.03 (7) (a),
10 166.03 (7) (b), 166.03 (8) (title), 166.03 (8) (a) to (c), 166.03 (9), 166.03 (10),
11 166.03 (11), 166.03 (12), 166.03 (13), 166.03 (14), 166.04, 166.05 (1), 166.05 (2),
12 166.06 (title), 166.06 (1), 166.06 (2), 166.07 (title), 166.07, 166.08 (title), 166.08
13 (2) (intro.), 166.08 (2) (b), 166.08 (2) (c), 166.08 (2) (d), 166.08 (2) (e), 166.08 (3),
14 166.08 (4), 166.08 (6), 166.08 (7), 166.08 (8), 166.08 (9), 166.08 (10), 166.08 (11),
15 166.09, 166.15 (1) (e), 166.20 (1) (intro.), 166.20 (1) (d), 166.20 (1) (ge), 166.20
16 (1) (gk), 166.20 (1) (j), 166.20 (2) (intro.), 166.20 (2) (a), 166.20 (2) (bg), 166.20
17 (2) (bm), 166.20 (2) (bs) 1., 166.20 (2) (bs) 2., 166.20 (2) (d), 166.20 (3) (intro.),
18 166.20 (3) (b), 166.20 (3) (c), 166.20 (4), 166.20 (4m), 166.20 (5) (a) 4., 5. and 6.,
19 166.20 (7) (a) (intro.), 166.20 (7) (a) 1., 166.20 (7) (a) 2., 166.20 (7) (b), (d), (dm)
20 and (e), 166.20 (7m) and (8), 166.20 (9) (a), 166.20 (11), 166.21 (1) (a), 166.21 (1)
21 (b) and (2), 166.21 (2m) (f), 166.21 (3), (4) and (5), 166.215 (1), 166.215 (2),
22 166.215 (3) (intro.), 166.215 (4), 166.215 (5), 166.22 (1) (intro.), 166.22 (1) (b),
23 (c) and (d), 166.22 (3), 166.22 (3m), 166.22 (4) (b), 166.23 (1), 166.23 (2), 166.23
24 (2m), 166.23 (3), 166.25, 250.042 (4) (a) 1., 250.042 (4) (a) 3., 250.042 (4) (a) 4.,
25 250.042 (4) (a) 5. and 250.042 (4) (b); ***to consolidate, renumber and amend***

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1 166.03 (1) (b) (intro.) and 1.; **to amend** 17.025 (4) (c), 20.370 (3) (ma), 20.370
2 (3) (mu), 20.465 (1) (h), 20.465 (3) (b), 20.465 (3) (dd), 20.465 (3) (dp), 20.465 (3)
3 (dr), 20.465 (3) (e), 20.465 (3) (f), 20.465 (3) (g), 20.465 (3) (h), 20.465 (3) (i),
4 20.465 (3) (jm), 20.465 (3) (jt), 20.465 (3) (r), 20.465 (3) (s), 23.114 (1) (c), 50.36
5 (3d) (a) 1., 50.36 (3d) (a) 2., 59.54 (8) (a) 1., 59.54 (8) (a) 3., 59.54 (8) (b) 2., 60.23
6 (20), 60.24 (1) (e) 3., 66.0312 (3), 66.03125 (3), 66.0314 (1) (a), 66.0314 (2) (a),
7 66.0314 (2) (b) 1., 101.985 (2) (c), 102.07 (7m), 102.29 (10), 102.475 (1), 110.07
8 (1) (a) 1., 115.01 (10) (a) 2., 115.812 (3) (b) 1., 157.055 (2) (intro.), 165.25 (6) (b),
9 250.01 (intro.), 250.01 (6g), 250.01 (6r), 250.03 (3) (a) (intro.), 250.042 (1),
10 252.06 (10) (c), 254.34 (1) (am), 256.08 (4) (i), 256.15 (2), 292.11 (12) (b), 321.39
11 (1) (a) 3., 321.65 (1) (a) 2., 323.50 (1), 323.53 (1), 323.53 (2) (b) (intro.), 323.54
12 (1), 323.55 (3), 341.04 (intro.), 440.88 (5), 441.06 (4), 441.10 (3) (c), 441.15 (2)
13 (intro.), 441.15 (5) (a) 5., 445.04 (2), 447.03 (1) (intro.), 448.03 (2) (p), 448.03 (3)
14 (a) (intro.), 448.03 (3) (b), 448.03 (3) (e), 448.61, 448.66, 450.03 (1) (h), 450.145
15 (1) (c), 453.05 (1), 455.02 (1m), 455.02 (3m), 457.04 (intro.), 893.82 (2) (d) 1n.,
16 895.46 (5) (am), 895.483 (1), 895.483 (2), 895.483 (3), 895.51 (2m), 895.55 (2)
17 (intro.) and 979.012 (1); **to repeal and recreate** 95.50; **to create** 14.38 (10m),
18 50.36 (6), 94.77 (2), 94.77 (3), 115.01 (10) (a) 3., chapter 257 (title), 257.01
19 (intro.), 257.01 (1) (b) and (c), 257.01 (2), 257.01 (3), 257.01 (5) (b) and (c), 257.01
20 (7), 257.01 (8), 257.01 (9) (b) and (c), 257.01 (10), 257.01 (11) (b) and (c), 257.01
21 (12), 257.02, 257.03 (title), 257.03 (1) (b), (c) and (d), 257.03 (2), 257.03 (3),
22 257.04, chapter 323 (title), subchapter I (title) of chapter 323 [precedes 323.01],
23 323.02 (6), 323.02 (10), 323.02 (15), 323.02 (17), 323.02 (19), subchapter II (title)
24 of chapter 323 [precedes 323.10], 323.12 (title), 323.12 (1) (intro.), 323.12 (2)
25 (intro.), 323.12 (4) (intro.), 323.13 (title), 323.13 (1) (title), 323.13 (1) (a), 323.13

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1 (2) (h), 323.14 (1) (title), 323.14 (1) (a) 1., 323.14 (2) (title), 323.14 (2) (a), 323.14
2 (3) (title), 323.14 (4) (title), 323.15 (title), 323.15 (1) (title), 323.17, 323.18,
3 323.19, subchapter III (title) of chapter 323 [precedes 323.30], subchapter IV
4 (title) of chapter 323 [precedes 323.40], 323.40, 323.41 (title), (1), (2), (3) and (4),
5 323.42, 323.45 (4), subchapter V (title) of chapter 323 [precedes 323.50], 323.55
6 (title), subchapter VI (title) of chapter 323 [precedes 323.60], subchapter VII
7 (title) of chapter 323 [precedes 323.70], subchapter VIII (title) of chapter 323
8 [precedes 323.80] and 801.50 (3m) of the statutes; and *to affect* Laws of 1965,
9 chapter 583, section 9; **relating to:** emergency management, succession of
10 public offices, liability and licensure of emergency volunteers, disaster relief,
11 ratification of the pest control compact, transportation and disposal of animal
12 carcasses, the plant industry, computation of school days, variance for hospital
13 requirements, public works mutual assistance, emergencies related to
14 computer or telecommunication systems, and providing penalties.

Analysis by the Legislative Reference Bureau

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

For further information see the *state* 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:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Emergency Management and Continuity of Government. The Special Committee was directed to: (1) conduct a recodification of ch. 166, stats., relating to emergency management, to include reorganizing the chapter in a logical manner, renumbering and retitling sections, consolidating related provisions, modernizing language, resolving ambiguities in language, and making other necessary changes; (2) make recommendations on issues relating to continuity of legislative operations during emergencies, including but not limited to lines of succession, alternate seat of state government for the legislature, suspension of legislative quorum requirements, and participation by legislators through

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alternative means from remote locations; and (3) review the uniform emergency volunteer health practitioners act for consideration and introduction in the next legislative biennium.

Recodification of Chapter 166 of the Statutes

The bill does the following regarding the emergency management provisions of the statutes:

1. Moves the emergency management provisions of the statutes that are currently in ch. 166 to a newly created ch. 323.

2. Reorganizes the entire chapter by subdividing it into the 8 subchapters shown in the table of contents set forth below. The current ch. 166 consists of 18 sections that are not organized into subchapters.

3. Makes nonsubstantive editorial changes to modernize language to make the language consistent with current drafting style.

4. Makes minor changes in the chapter. These include the following:

- Creates a definition of the term disaster – “a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this state or a portion of this state, or critical systems, including computer, telecommunications, or agricultural systems.”

- Provides that an individual may not simultaneously serve as the head of emergency management for 2 or more counties.

- Specifies that alleged violations on tribal land of the statutes relating to hazardous substances information may be enforced only by the department of justice.

Chapter 323, which will be entitled Emergency Management, will be organized as follows:

**Subchapter I
General Provisions**

323.01 Declaration of policy.

323.02 Definitions.

**Subchapter II
Powers and Duties Related to Emergency Management**

323.10 Declaration by governor.

323.11 Declaration by local government.

323.12 Governor; duties and powers.

323.13 Adjutant general; duties and powers.

323.14 Local government; duties and powers.

323.15 Heads of emergency management; duties and powers.

323.16 Powers of law enforcement officers.

323.17 State traffic patrol officers and conservation wardens.

323.18 State agency volunteers.

323.19 State official authority to grant variances to statutes and rules for a disaster.

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- 323.20 Emergency use of vehicles.
- 323.24 Prohibition against restricting firearms or ammunition during emergency.
- 323.25 Personnel restrictions.
- 323.28 Penalties.
- Subchapter III
Disaster Assistance Programs**
- 323.30 Federal disaster assistance.
- 323.31 State disaster assistance.
- Subchapter IV
Liability and Exemptions**
- 323.40 Responsibility for worker’s compensation.
- 323.41 Liability of state or local unit of government.
- 323.42 Reimbursement of local units of government.
- 323.43 Bearing of losses.
- 323.44 Public shelters.
- 323.45 Providers of equipment and other items.
- Subchapter V
Emergency Location and Continuity of Government**
- 323.50 Definitions.
- 323.51 Emergency seat of state government.
- 323.52 Temporary locations of government for local units of government.
- 323.53 Succession to office; state officers.
- 323.54 Succession to office; local officers.
- 323.55 Interim successors.
- Subchapter VI
Emergency Planning**
- 323.60 Hazardous substances information and emergency planning.
- 323.61 Emergency planning grants.
- Subchapter VII
Emergency Response Teams**
- 323.70 Hazardous substance emergency response.
- 323.71 Local agency response and reimbursement.
- Subchapter VIII
Emergency Management Assistance Compact**
- 323.80 Emergency management assistance compact.

SENATE BILL 226**Liability and Licensure of Volunteers**

Current law provides that certain health care providers who, during a declared state of emergency, provide services for which they are credentialed, are considered state agents of the department of health services (DHS) for purposes of certain statutes related to lawsuits (notification to the state, legal representation by the state, limitation on damages, and payment of damages) and are considered employees of the state for purposes of worker's compensation benefits. Those providers must have provided the services on behalf of a health care facility or mass clinic on a voluntary, unpaid basis, except that the provider may accept reimbursement for travel, lodging, and meals. In addition, current law provides that the health care facility on whose behalf the services are provided is, for the provision of those services, a state agent of DHS for purposes of the statutes related to litigation.

Current law provides that the persons covered by this statute are a behavioral health provider (psychologist, social worker, clinical social worker, marriage and family therapist, or professional counselor); health care provider (nurse aide, physician, physician assistant, podiatrist, registered nurse, licensed practical nurse, nurse-midwife, dentist, pharmacist, veterinarian, or respiratory care practitioner); pupil services provider (school counselor, school psychologist, or school social worker); or substance abuse prevention provider (substance abuse counselor, clinical supervisor, or prevention specialist). In order for these persons to be covered by the current law, they must have been credentialed by the specified Wisconsin regulatory agency at any time within the 10 years before a state of emergency is declared.

The bill makes the following changes in current law:

- The statutes described above, as modified by the bill, are moved to a new chapter of the statutes — ch. 257, stats., which will be entitled “Emergency Volunteer Health Care Practitioners”.
- While current law covers persons credentialed by Wisconsin regulatory agencies, the bill also includes persons who are credentialed by another state or territory that authorizes or qualifies the individual to perform acts that are substantially the same as those acts that an individual credentialed in Wisconsin may perform.
- The bill includes several providers who are not covered by current law — emergency medical technicians, first responders, funeral directors, and veterinary technicians.
- The bill requires DHS to establish and maintain an electronic system to verify credentials of and register providers willing to volunteer during an emergency.
- The bill requires that the provider must register in writing with the health care facility or mass clinic where he or she provides the services and be included in the DHS registry of providers willing to volunteer during an emergency.

Agricultural Issues**1. Pest Control**

In the 1965–66 legislative session, the legislature ratified the pest control compact. However, that ratification was made contingent on ratification of the compact by Illinois, Iowa, Michigan, and Minnesota. While Illinois, Michigan, and Minnesota have ratified the compact, Iowa has not done so.

The bill eliminates the need for Iowa to ratify the pest control compact in order for Wisconsin's ratification to take effect. Therefore, if the bill is enacted into law, Wisconsin's ratification of the compact will take effect.

SENATE BILL 226**2. Animal Carcasses**

Current law provides that a person may not deposit or throw into any specified body of water, or leave or deposit on any public highway or other place, the carcass of any animal. In addition, a dead animal may not be deposited or left on any premises under a person's control if it is exposed in such a manner that it could be reached by dogs or wild animals for a period longer than 24 hours in the months of April to November, or 48 hours in the months of December to March. No person is allowed to transport, haul, or drag along any highway the carcass of any animal suspected of having died from specified diseases or any other disease that the department of agriculture, trade and consumer protection (DATCP) designates as highly dangerous. Those carcasses are required to be burned or buried at least 6 feet below the surface of the ground and completely covered.

In addition, current law provides that any dead animal found on a public highway or other public place must, if the owner of the animal cannot be found, be buried or otherwise disposed of at public expense by the local health department in the jurisdiction where the animal is found. However, this does not apply if the county exercises its authority under a statute allowing the removal of dead animals or contracting for removal and burial or other disposition with a private rendering plant. If a county does not exercise its authority under that statute, the owner of the carcass must dispose of it as specified in current law.

The bill repeals current law and replaces it with a statute that provides that no person may do either of the following, either directly or through an employee or agent: (1) transport or dispose of a carcass that the person knows or reasonably should know to be a diseased carcass in a manner that creates a significant and foreseeable risk of transmitting disease to humans or animals; or (2) dispose of a carcass in the waters of the state (except that this does not prohibit the use of farm-raised fish as bait). The bill also provides that no person who owns or controls a carcass, or owns or controls the land on which a carcass is located, may leave the carcass exposed to access by dogs or wild animals for more than 24 hours during the months of April to November or for more than 48 hours during the months of December to March if the person knows or reasonably should know that the carcass is exposed. In addition, DATCP may regulate the transportation and disposal of carcasses to prevent and control contagious and infectious diseases.

For purposes of the above statute, the term "carcass" is defined as the dead body, or any part of the dead body, of a livestock animal or other domestic animal. The term "contagious or infectious disease" is defined as a disease that is spread by contact, bodily secretions, or fomites, or that is caused by a pathogenic agent. A "fomite" is defined as an inanimate object or a substance that transfers infectious organisms from one animal to another. Finally, the bill defines "diseased carcass" as the carcass of a livestock animal or other domestic animal if the animal was any of the following at the time of death: (1) infected with a contagious or infectious disease; (2) potentially infected with such a disease, based on known exposure to such a disease; or (3) reasonably suspected of being infected with such a disease, based on symptoms or testing.

3. Plant Industry

Current law provides that any person who violates any provision of ch. 94, stats., for which a specific penalty is not prescribed must be fined not more than \$200 or imprisoned in the county jail for not more than 6 months or both. Portions of ch. 94, stats., for which no specific penalty is prescribed include provisions that deal with plant inspection and pest control, abatement of pests, inspection and licensing of nursery stock, and regulation of honeybees.

The bill increases the penalty to provide that any person who violates any provision of ch. 94, stats., for which a specific penalty is not prescribed, or an order issued or rule promulgated under such a provision, may be fined not more than \$1,000 for the first

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offense and may be fined not less than \$500 nor more than \$5,000 or imprisoned not more than 6 months or both for each subsequent offense. The bill also provides that in lieu of this criminal penalty, a person who violates any provision of this chapter for which a specific penalty is not prescribed, or an order issued or rule promulgated under such a provision, may be required to forfeit not less than \$200 nor more than \$5,000, or for an offense committed within 5 years of an offense for which a penalty has been assessed, may be required to forfeit not less than \$400 nor more than \$10,000.

In addition, the bill gives DATCP the authority to seek an injunction restraining any person from violating ch. 94, stats., or a rule promulgated under that chapter.

Computation of School Days

Current law provides that no state aid may be paid to a school district that fails to hold school for at least 180 days each year, with the days to be computed in accordance with s. 115.01 (10). That latter statute provides that school days are days on which school is actually taught and also include the following: (1) days on which school is closed by order of the school district administrator because of inclement weather and days on which parent-teacher conferences are held, not to exceed 5 days during the school term; and (2) days on which school is closed by order of a local health officer.

This bill also includes days on which school is closed by order of the state department of health services. In addition, it includes days on which school is closed by order of the school district administrator because of a threat to the health or safety of pupils or school personnel (but not including inclement weather, which is covered by current law).

Hospital Variances

Current law provides that the pharmacy examining board (PEB) or its designee may grant a variance to a requirement of ch. 450, stats., which relates to regulation of pharmacists and pharmacies, or a rule promulgated by the PEB if all of the following conditions are met: (1) the PEB or designee determines that a natural or man-made disaster or emergency exists or has occurred; (2) the pharmacist has requested the variance; and (3) the PEB or designee determines that the variance is necessary to protect the public health, safety, or welfare. If a member of the PEB disagrees with a decision made by a designee, the chairperson of the PEB is required to call a meeting as soon as practicable to review the decision and the PEB may affirm or modify the designee's decision. A variance is for a stated term not to exceed 90 days, except that the PEB or designee may extend the variance upon request by a pharmacist if it determines that an extension is necessary to protect the public health, safety, or welfare.

The bill creates a similar provision for the secretary of DHS with respect to hospitals. Under the bill, the secretary or his or her designee may grant a variance to a statute affecting hospitals or a rule of DHS affecting hospitals if all of the conditions are met: (1) the secretary or designee determines that a disaster, as defined in the bill, has occurred; (2) a hospital has requested the variance; and (3) the secretary or designee determines that the variance is necessary to protect the public health, safety, or welfare. A variance is for a stated term not to exceed 90 days, except that the secretary or designee may extend the variance upon request by the hospital if he or she determines that an extension is necessary to protect the public health, safety, or welfare.

Public Works Mutual Assistance

Currently, the adjutant general is required to furnish guidance and establish standards for emergency management programs of local governments.

The bill requires that standards for public works include a suggestion that local governments, or federally recognized American Indian tribes or bands, adopt the mutual

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assistance agreement created by the division of emergency management for the intergovernmental collaboration of public works personnel, equipment, and resources during an emergency. The adjutant general must consult with public works associations and organizations regarding the content of that agreement. The bill also defines the term “public works”.

Computer or Telecommunication Systems Emergencies

Current law allows the governor to declare a state of emergency for the state or any portion of the state if he or she determines that certain emergencies or disasters exist. If the governor determines that a public health emergency exists, he or she may declare a state of emergency related to public health and may designate DHS as the lead state agency to respond to that emergency. The bill provides that if the governor determines that an emergency related to computer or telecommunication systems exists, he or she may designate the department of administration (DOA) as the lead agency to respond to that emergency.

Current law provides that subject to approval by the governor, the adjutant general must develop and promulgate a state plan of emergency management for the security of persons and property. In developing the plan, the adjutant general must seek the advice of DHS with respect to the emergency medical aspects of the plan. The bill requires that the adjutant general seek the advice of DOA with respect to aspects of the plan related to computer or telecommunication systems.

Current law requires the adjutant general to prescribe and carry out statewide training programs and exercises. The adjutant general is required to consult with DHS regarding the provision of incident command system training to local health department personnel. The bill requires the adjutant general to consult with DOA regarding the provision of incident command system training for emergencies related to computer or telecommunication systems.

1 **SECTION 1.** 14.38 (10m) of the statutes is created to read:

2 14.38 (10m) NOTIFICATION OF CONSTITUTIONAL AMENDMENT. If an amendment to
3 the Wisconsin Constitution is approved that requires the legislature to provide for
4 temporary succession to the powers and duties of public offices for the period of an
5 emergency resulting from a cause other than an enemy action, within 30 days after
6 the government accountability board records the approval under s. 7.70 (3) (h), notify
7 the legislature that the amendment has been approved.

8 **SECTION 2.** 16.61 (3) (d) of the statutes is renumbered 16.61 (3) (d) (intro.) and
9 amended to read:

10 16.61 (3) (d) (intro.) Shall establish a system for the protection and
11 preservation of essential public records as directed by s. 166.10. that are necessary
12 to the continuity of governmental functions in the event of a disaster, as defined in

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1 s. 323.02 (6), or the imminent threat of a disaster, and in establishing the system
2 shall do all of the following:

3 **SECTION 3.** 17.025 (4) (c) of the statutes is amended to read:

4 17.025 (4) (c) *Secretary of state; state treasurer.* When the temporary vacancy
5 exists in the office of secretary of state or in the office of state treasurer, the duties
6 of the office shall be assumed, respectively, by the first emergency interim successor
7 designated under s. ~~166.08 (4)~~ 323.53 (2) or, if no such designation has been made for
8 the respective office, then by a deputy appointed by the governor.

9 **SECTION 4.** 20.370 (3) (ma) of the statutes is amended to read:

10 20.370 (3) (ma) *General program operations — state funds.* From the general
11 fund, the amounts in the schedule for regulatory and enforcement operations under
12 chs. 30, 31 and 280 to 299 and ss. 44.47, 59.692, 59.693, 61.351, 61.354, 62.231,
13 62.234 and 87.30, for reimbursement of the conservation fund for expenses incurred
14 for actions taken under s. ~~166.04~~ 323.12 (2) (c); for review of environmental impact
15 requirements under ss. 1.11 and 23.40; and for enforcement of the treaty-based,
16 off-reservation rights to fish, hunt and gather held by members of federally
17 recognized American Indian tribes or bands.

18 **SECTION 5.** 20.370 (3) (mu) of the statutes is amended to read:

19 20.370 (3) (mu) *General program operations — state funds.* The amounts in
20 the schedule for law enforcement operations under ss. 23.09 to 23.11, 90.21, and
21 ~~166.04~~ 323.12 (2) (c) and chs. 29, 30, and 169 and for review of environmental impact
22 requirements under ss. 1.11 and 23.40.

23 **SECTION 6.** 20.465 (1) (h) of the statutes is amended to read:

24 20.465 (1) (h) *Intergovernmental services.* The amounts in the schedule to
25 provide services to local units of government for fire, crash and rescue emergencies

SENATE BILL 226**SECTION 6**

1 and to provide assistance under s. ~~166.30~~ 323.80. All moneys received from local
2 units of government for services provided for fire, crash, and rescue emergencies and
3 as reimbursement from other states and territories for any losses, damages, or
4 expenses incurred when units or members of the Wisconsin national guard are
5 activated in state status to provide assistance under s. ~~166.30~~ 323.80 shall be
6 credited to this appropriation.

7 **SECTION 7.** 20.465 (3) (b) of the statutes is amended to read:

8 20.465 (3) (b) *Major State disaster assistance.* The amounts in the schedule to
9 provide payments under s. ~~166.03 (2) (b) 9.~~ 323.31 for damages and costs incurred
10 as the result of a ~~major~~ disaster.

11 **SECTION 8.** 20.465 (3) (dd) of the statutes is amended to read:

12 20.465 (3) (dd) *Regional emergency response teams.* The amounts in the
13 schedule for payments to regional emergency response teams under s. ~~166.215 (1)~~
14 323.70 (2).

15 **SECTION 9.** 20.465 (3) (dp) of the statutes is amended to read:

16 20.465 (3) (dp) *Emergency response equipment.* The amounts in the schedule
17 for grants for the costs of computers and emergency response equipment under s.
18 ~~166.21~~ 323.61 (2) (br).

19 **SECTION 10.** 20.465 (3) (dr) of the statutes is amended to read:

20 20.465 (3) (dr) *Emergency response supplement.* As a continuing
21 appropriation, the amounts in the schedule to be used for response costs of a regional
22 emergency response team that are not reimbursed under s. ~~166.215 (2) or (3)~~ 323.70
23 (3) or (4) and for response costs of a local agency that are not reimbursed under s.
24 ~~166.22~~ 323.71 (4).

25 **SECTION 11.** 20.465 (3) (e) of the statutes is amended to read:

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1 20.465 (3) (e) *Disaster recovery aid; public health emergency quarantine costs.*
2 A sum sufficient to pay the state share of grants to individuals, to make payments
3 to local governments as defined in 42 USC 5122 (6) under federal disaster recovery
4 programs as authorized in s. ~~166.03 (2) (b) 8.~~ 323.30, and to reimburse local health
5 departments under s. 252.06 (10) (c) 2.

6 **SECTION 12.** 20.465 (3) (f) of the statutes is amended to read:

7 20.465 (3) (f) *Civil air patrol aids.* The amounts in the schedule to provide
8 assistance to the civil air patrol under s. ~~166.03 (2) (a) 5.~~ 323.13 (1) (e).

9 **SECTION 13.** 20.465 (3) (g) of the statutes is amended to read:

10 20.465 (3) (g) *Program services.* The amounts in the schedule for conferences,
11 training and other services provided by the division of emergency management and
12 for expenses incurred under s. ~~166.03 (2) (b) 6. and 7.~~ 323.13 (2) (f) and (g). All moneys
13 received for conferences, training and other services provided by the division of
14 emergency management shall be credited to this appropriation. All moneys received
15 from assessments and contributions under s. ~~166.03 (2) (b) 6. and 7.~~ 323.13 (2) (f) and
16 (g) shall be credited to this appropriation.

17 **SECTION 14.** 20.465 (3) (h) of the statutes is amended to read:

18 20.465 (3) (h) *Interstate emergency assistance.* The amounts in the schedule
19 to provide assistance under s. ~~166.30~~ 323.80. All moneys received under s. ~~166.30~~
20 323.80 (9) as reimbursement from other states and territories for any losses,
21 damages, or expenses incurred when the division of emergency management
22 provides assistance under s. ~~166.30~~ 323.80 shall be credited to this appropriation
23 account.

24 **SECTION 15.** 20.465 (3) (i) of the statutes is amended to read:

SENATE BILL 226**SECTION 15**

1 20.465 (3) (i) *Emergency planning and reporting; administration.* From the
2 moneys received by the division of emergency management from fees assessed under
3 s. ~~166.20~~ 323.60 (7), the amounts in the schedule for emergency planning,
4 notification and response and reporting activities under s. ~~166.20~~ 323.60 and
5 administration of the grant program under s. ~~166.21~~ 323.61.

6 **SECTION 16.** 20.465 (3) (jm) of the statutes is amended to read:

7 20.465 (3) (jm) *Division of emergency management; emergency planning*
8 *grants.* All moneys received by the division of emergency management from fees
9 assessed under s. ~~166.20~~ 323.60 (7), except moneys appropriated under par. (i) for the
10 payment of grants under s. ~~166.21~~ 323.61, except grants under s. ~~166.21~~ (2) (b) (r)
11 323.61 (2) (br).

12 **SECTION 17.** 20.465 (3) (jt) of the statutes is amended to read:

13 20.465 (3) (jt) *Regional emergency response reimbursement.* All moneys
14 received by the division of emergency management under s. ~~166.215~~ (3) 323.70 (4)
15 for reimbursement of regional emergency response teams under s. ~~166.215~~ (2) 323.70
16 (3).

17 **SECTION 18.** 20.465 (3) (r) of the statutes is amended to read:

18 20.465 (3) (r) *Division of emergency management; petroleum inspection fund.*
19 From the petroleum inspection fund, the amounts in the schedule for the payment
20 of emergency planning grants under s. ~~166.21~~ 323.61.

21 **SECTION 19.** 20.465 (3) (s) of the statutes is amended to read:

22 20.465 (3) (s) *Major State disaster assistance; petroleum inspection fund.* From
23 the petroleum inspection fund, as a continuing appropriation, the amounts in the
24 schedule to provide payments for damages and costs incurred as the result of a major
25 disaster.

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1 **SECTION 20.** 23.114 (1) (c) of the statutes is amended to read:

2 23.114 (1) (c) Paragraph (b) does not apply to a state of emergency declared by
3 the governor under s. ~~166.03~~ 323.10 and does not supersede the authority of the
4 department of agriculture, trade and consumer protection under ch. 94.

5 **SECTION 21.** 50.36 (3d) (a) 1. of the statutes is amended to read:

6 50.36 (3d) (a) 1. The health care provider seeks to provide care at the hospital
7 during a period of a state of emergency related to public health declared by the
8 governor under s. ~~166.03 (1) (b) 1.~~ 323.10.

9 **SECTION 22.** 50.36 (3d) (a) 2. of the statutes is amended to read:

10 50.36 (3d) (a) 2. The health care provider does not have staff privileges at the
11 hospital at the time that the state of emergency related to public health is declared
12 by the governor under s. ~~166.03 (1) (b) 1.~~ 323.10.

13 **SECTION 23.** 50.36 (6) of the statutes is created to read:

14 50.36 (6) (a) The secretary or his or her designee may grant a variance to a
15 statute affecting hospitals or a rule of the department affecting hospitals if all of the
16 following apply:

17 1. The secretary or his her designee determines that disaster, as defined in s.
18 323.02 (6), has occurred.

19 2. A hospital has requested the variance.

20 3. The secretary or his her designee determines that the variance is necessary
21 to protect the public health, safety, or welfare.

22 (b) A variance granted under par. (a) shall be for a stated term not to exceed
23 90 days, except that the secretary or his her designee may extend the variance upon
24 request by the hospital if he or she determines that an extension is necessary to
25 protect the public health, safety, or welfare.

SENATE BILL 226**SECTION 24**

1 **SECTION 24.** 59.54 (8) (a) 1. of the statutes is amended to read:

2 59.54 (8) (a) 1. Create a local emergency planning committee, with members
3 as specified in 42 USC 11001 (c), which shall have the powers and the duties
4 established for such committees under 42 USC 11000 to 11050 and under ss. ~~166.20~~
5 323.60 and ~~166.21~~ 323.61.

6 **SECTION 25.** 59.54 (8) (a) 3. of the statutes is amended to read:

7 59.54 (8) (a) 3. Within the availability of state funds, take all actions that are
8 necessary to ensure that the committee created under this paragraph properly
9 executes the duties of a local emergency planning committee under 42 USC 11000
10 to 11050 and under ss. ~~166.20~~ 323.60 and ~~166.21~~ 323.61.

11 **SECTION 26.** 59.54 (8) (b) 2. of the statutes is amended to read:

12 59.54 (8) (b) 2. Implement programs and undertake activities which are
13 designed to prepare the county to cope with emergencies involving the accidental
14 release of hazardous substances and which are consistent with, but in addition to,
15 the minimum requirements of s. ~~166.20~~ 323.60 and 42 USC 11000 to 11050.

16 **SECTION 27.** 60.23 (20) of the statutes is amended to read:

17 60.23 (20) DISPOSITION OF DEAD ANIMALS. Notwithstanding ss. ~~s. 59.54 (21) and~~
18 ~~95.50(3)~~, dispose of any dead animal within the town or contract for the removal and
19 disposition with any private disposal facility. A town may enter into a contract with
20 any other governmental unit under s. 66.0301 to provide for the removal and
21 disposition. A town may recover its costs under this subsection by imposing a special
22 charge under s. 66.0627.

23 **SECTION 28.** 60.24 (1) (e) 3. of the statutes is amended to read:

24 60.24 (1) (e) 3. Obtain necessary assistance, if available, in case of emergency,
25 except as provided under ch. ~~166~~ 323.

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1 **SECTION 29.** 66.0312 (3) of the statutes is amended to read:

2 66.0312 (3) This section does not apply during a state of emergency declared
3 by the governor under s. ~~166.03 (1) (b) 1.~~ 323.10.

4 **SECTION 30.** 66.03125 (3) of the statutes is amended to read:

5 66.03125 (3) This section does not apply during a state of emergency declared
6 by the governor under s. ~~166.03 (1) (b) 1.~~ 323.10.

7 **SECTION 31.** 66.0314 (1) (a) of the statutes is amended to read:

8 66.0314 (1) (a) “Emergency management program” means the emergency
9 management program of a city, village, town, or county, under s. ~~166.03 (4) (a)~~ 323.14
10 (1).

11 **SECTION 32.** 66.0314 (2) (a) of the statutes is amended to read:

12 66.0314 (2) (a) If the governor declares a state of emergency under s. ~~166.03~~
13 ~~(1) (b) 1.~~ 323.10, upon the request of a city, village, town, or county, or a person acting
14 under 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.

18 **SECTION 33.** 66.0314 (2) (b) 1. of the statutes is amended to read:

19 66.0314 (2) (b) 1. The responding agency meets the personnel and equipment
20 requirements in the state plan under s. ~~166.03 (2) (a) 1.~~ 323.13 (1) (b).

21 **SECTION 34.** 94.77 of the statutes is renumbered 94.77 (1) and amended to read:

22 94.77 (1) Any person who violates any provision of this chapter for which a
23 specific penalty is not prescribed shall, or an order issued or rule promulgated under
24 such a provision, may be fined not to exceed \$200 more than \$1,000 for the first
25 offense and may be fined not less than \$500 nor more than \$5,000 or imprisoned in

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1 ~~the county jail not to exceed~~ for not more than 6 months or both for each subsequent
2 offense.

3 **SECTION 35.** 94.77 (2) of the statutes is created to read:

4 94.77 (2) In lieu of the criminal penalty under sub. (1), a person who violates
5 any provision of this chapter for which a specific penalty is not prescribed, or an order
6 issued or rule promulgated under such a provision, may be required to forfeit not less
7 than \$200 nor more than \$5,000 or, for an offense committed within 5 years of an
8 offense for which a penalty has been assessed under this section, may be required to
9 forfeit not less than \$400 nor more than \$10,000.

10 **SECTION 36.** 94.77 (3) of the statutes is created to read:

11 94.77 (3) The department may seek an injunction restraining any person from
12 violating this chapter or a rule promulgated under this chapter.

13 **SECTION 37.** 95.50 of the statutes is repealed and recreated to read:

14 **95.50 Transportation and disposal of animal carcasses. (1) DEFINITIONS.**

15 In this section:

16 (a) “Carcass” means the dead body, or any part of the dead body, of a livestock
17 animal or other domestic animal.

18 (b) Notwithstanding s. 95.001 (2), “contagious or infectious disease” means a
19 disease that is spread by contact, bodily secretions, or fomites or that is caused by a
20 pathogenic agent.

21 (c) “Diseased carcass” means the carcass of a livestock animal or other domestic
22 animal if the animal was any of the following at the time of death:

- 23 1. Infected with a contagious or infectious disease.
- 24 2. Potentially infected with a contagious or infectious disease, based on known
25 exposure to a contagious or infectious disease.

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1 3. Reasonably suspected of being infected with a contagious or infectious
2 disease, based on symptoms or testing.

3 (d) "Fomite" means an inanimate object or a substance that transfers infectious
4 organisms from one animal to another.

5 **(2) CARCASS TRANSPORTATION AND DISPOSAL PROHIBITIONS.** No person may do any
6 of the following, either directly or through an employee or agent:

7 (a) Transport or dispose of a carcass that the person knows or reasonably
8 should know to be a diseased carcass in a manner that creates a significant and
9 foreseeable risk of transmitting disease to humans or animals.

10 (b) Dispose of a carcass in the waters of the state. This paragraph does not
11 prohibit the use of farm-raised fish as bait.

12 **(3) TIMELY DISPOSITION OF CARCASSES.** No person who owns or controls a carcass,
13 or who owns or controls the land on which a carcass is located, may leave the carcass
14 exposed to access by dogs or wild animals for more than 24 hours during the months
15 of April to November or for more than 48 hours during the months of December to
16 March if the person knows or reasonably should know that the carcass is exposed.

17 **(4) REGULATION OF CARCASS TRANSPORTATION AND DISPOSAL.** The department may,
18 by rule or order, regulate the transportation and disposal of carcasses to prevent and
19 control contagious and infectious diseases.

20 **SECTION 38.** 101.985 (2) (c) of the statutes is amended to read:

21 101.985 **(2) (c) *Emergency licensing.*** If the governor declares that a state of
22 emergency exists in this state under s. ~~166.03 (1) (b) 1.~~ 323.10 and the department
23 determines that the number of individuals in the state who hold elevator mechanic's
24 licenses issued by the department under this section on the date of the declaration
25 is insufficient to cope with the emergency, the department shall summarily issue an

SENATE BILL 226**SECTION 38**

1 emergency elevator mechanic's license to any individual who is certified by an
2 elevator contractor licensed under this subchapter as adequately qualified and able
3 to perform the work of an elevator mechanic without direct and immediate
4 supervision, who the department determines is so qualified and able, and who
5 applies for an emergency elevator mechanic's license on a form prescribed by the
6 department. An individual certified by a contractor under this ~~subdivision~~
7 paragraph may perform work as an elevator mechanic for up to a total of 5 days
8 preceding the date the individual is issued the license. An emergency elevator
9 mechanic's license has a term of 30 days and may be renewed by the department in
10 the case of a continuing emergency. The department shall specify on an emergency
11 elevator mechanic's license the geographic area in which the licensee may provide
12 services under the license. The requirements under par. (a) do not apply to an
13 individual who applies for an emergency elevator mechanic's license.

14 **SECTION 39.** 102.07 (7m) of the statutes is amended to read:

15 102.07 (7m) An employee, volunteer, or member of an emergency management
16 ~~unit program~~ is considered an employee for purposes of this chapter as provided in
17 s. ~~166.03 (8) (d)~~ 323.40, a member of a regional emergency response team who is
18 acting under a contract under s. ~~166.215 (1)~~ 323.70 (2) is considered an employee of
19 the state for purposes of this chapter as provided in s. ~~166.215 (4)~~ 323.70 (5), and a
20 ~~behavioral health provider, health care provider, pupil services provider, or~~
21 ~~substance abuse prevention provider who is providing volunteer, unpaid behavioral~~
22 ~~health services, health care services, pupil services, or substance abuse prevention~~
23 ~~services on behalf of a health care facility during a state of emergency~~ practitioner
24 is considered an employee of the state for purposes of this chapter as provided in s.
25 ~~250.042 (4) (b)~~ 257.03.

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1 **SECTION 40.** 102.29 (10) of the statutes is amended to read:

2 102.29 (10) ~~No behavioral health provider, health care provider, pupil services~~
3 ~~provider, or substance abuse prevention provider~~ A practitioner who, under s.
4 ~~250.042 (4) (b)~~ 257.03, is considered ~~to be~~ an employee of the state for purposes of
5 worker's compensation coverage while providing ~~volunteer, unpaid behavioral~~
6 ~~health services, health care services, pupil services, or substance abuse prevention~~
7 ~~services on behalf of a health care facility, the department of health services, or a local~~
8 ~~health department~~ during a state of emergency and who makes a claim for
9 compensation under this chapter may not make a claim or ~~bring~~ maintain an action
10 in tort against the health care facility, department, or local health department that
11 accepted those services.

12 **SECTION 41.** 102.475 (1) of the statutes is amended to read:

13 102.475 (1) SPECIAL BENEFIT. If the deceased employee is a law enforcement
14 officer, correctional officer, fire fighter, rescue squad member, diving team member,
15 national guard member or state defense force member on state active duty as
16 described in s. 102.07 (9) or if a deceased person is an employee or volunteer
17 performing emergency management activities under ch. ~~166~~ 323 during a state of
18 emergency or a circumstance described in s. ~~166.04~~ 323.12 (2) (c), who sustained an
19 accidental injury while performing services growing out of and incidental to that
20 employment or volunteer activity so that benefits are payable under s. 102.46 or
21 102.47 (1), the department shall voucher and pay from the appropriation under s.
22 20.445 (1) (aa) a sum equal to 75% of the primary death benefit as of the date of death,
23 but not less than \$50,000 to the persons wholly dependent upon the deceased. For
24 purposes of this subsection, dependency shall be determined under ss. 102.49 and
25 102.51.

SENATE BILL 226**SECTION 42**

1 **SECTION 42.** 110.07 (1) (a) 1. of the statutes is amended to read:

2 110.07 (1) (a) 1. Enforce and assist in the administration of this chapter and
3 chs. ~~166~~, 194, 218, 341 to 349 and 351, and ss. 23.33, 125.07 (4) (b), 125.085 (3) (b),
4 167.31 (2) (b) to (d) and 287.81 and ch. 350 where applicable to highways, or orders
5 or rules issued pursuant thereto.

6 **SECTION 43.** 115.01 (10) (a) 2. of the statutes is amended to read:

7 115.01 (10) (a) 2. Days on which school is closed by order of a local health officer,
8 as defined in s. 250.01 (5), or the department of health services.

9 **SECTION 44.** 115.01 (10) (a) 3. of the statutes is created to read:

10 115.01 (10) (a) 3. Days on which school is closed by order of the school district
11 administrator because of a threat to the health or safety of pupils or school personnel,
12 but not including inclement weather.

13 **SECTION 45.** 115.812 (3) (b) 1. of the statutes is amended to read:

14 115.812 (3) (b) 1. In this paragraph, “public agency” has the meaning given in
15 s. ~~166.20~~ 323.60 (1) (i), except that it excludes a local educational agency.

16 **SECTION 46.** 157.055 (2) (intro.) of the statutes is amended to read:

17 157.055 (2) (intro.) Notwithstanding ss. 69.18 (4), 445.04 (2), 445.14, 979.01 (3),
18 (3m), and (4), 979.02, and 979.10, and subch. VI of ch. 440, during a period of a state
19 of emergency related to public health declared by the governor under s. ~~166.03 (1) (b)~~
20 ~~1. 323.10~~, a public health authority may do all of the following:

21 **SECTION 47.** 165.25 (6) (b) of the statutes is amended to read:

22 165.25 (6) (b) Volunteer health care providers who provide services under s.
23 146.89 ~~or 250.042 (4), volunteer behavioral health providers, pupil services~~
24 ~~providers, and substance abuse prevention providers,~~ practitioners who provide
25 services under s. ~~250.042 (4)~~ 257.03, and health care facilities on whose behalf

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1 services are provided under s. ~~250.042 (4)~~ 257.03 are, for the provision of those
2 services, covered by this section and shall be considered agents of the department of
3 health services for purposes of determining which agency head may request the
4 attorney general to appear and defend them.

5 **SECTION 48.** Chapter 166 (title) of the statutes is repealed.

6 **SECTION 49.** 166.01 (title) of the statutes is renumbered 323.01 (title).

7 **SECTION 50.** 166.01 of the statutes is renumbered 323.01 (1) and amended to
8 read:

9 323.01 (1) To prepare the state and its subdivisions to cope with emergencies
10 resulting from ~~enemy action and natural or man-made disasters~~ a disaster, or the
11 imminent threat of a disaster, it is declared to be necessary to establish an
12 organization for emergency management, conferring upon the governor and others
13 specified the powers and duties provided by this chapter.

14 **SECTION 51.** 166.02 (intro.) of the statutes is renumbered 323.02 (intro.).

15 **SECTION 52.** 166.02 (1g) of the statutes is renumbered 323.02 (1).

16 **SECTION 53.** 166.02 (1m) of the statutes is renumbered 323.02 (2).

17 **SECTION 54.** 166.02 (1p) of the statutes is renumbered 323.02 (3).

18 **SECTION 55.** 166.02 (1r) of the statutes is renumbered 323.02 (4).

19 **SECTION 56.** 166.02 (1t) of the statutes is renumbered 323.02 (5) and amended
20 to read:

21 323.02 (5) "Chemical agent" means a substance that has chemical properties
22 that produce lethal or serious effects in humans, plants or, animals, or other living
23 organisms.

24 **SECTION 57.** 166.02 (2) of the statutes is repealed.

25 **SECTION 58.** 166.02 (3) of the statutes is renumbered 323.02 (7).

SENATE BILL 226**SECTION 59**

1 **SECTION 59.** 166.02 (4) of the statutes is renumbered 323.02 (8) and amended
2 to read:

3 323.02 (8) “Emergency management” ~~includes “civil defense”~~ and means all
4 measures undertaken by or on behalf of the state and its subdivisions to do any of
5 the following:

6 (a) ~~To prepare~~ Prepare for and minimize the effect of ~~enemy action and natural~~
7 ~~or man-made~~ a disaster upon the civilian population or the imminent threat of a
8 disaster.

9 (b) ~~To effectuate emergency~~ Make repairs to, or the ~~emergency restoration of,~~
10 ~~vital public utilities and facilities~~ restore infrastructure or critical systems that are
11 ~~destroyed or damaged by such action or a~~ disaster.

12 **SECTION 60.** 166.02 (5) of the statutes is repealed.

13 **SECTION 61.** 166.02 (6m) of the statutes is renumbered 323.02 (9).

14 **SECTION 62.** 166.02 (6r) of the statutes is renumbered 323.02 (14).

15 **SECTION 63.** 166.02 (6u) of the statutes is repealed.

16 **SECTION 64.** 166.02 (7) of the statutes is renumbered 323.02 (16).

17 **SECTION 65.** 166.02 (8) of the statutes is renumbered 323.02 (18) and amended
18 to read:

19 323.02 (18) “Radiological agent” means radiation or radioactive material at a
20 level that is dangerous to ~~human health~~ humans, animals, plants, or other living
21 organisms.

22 **SECTION 66.** 166.03 (title) of the statutes is repealed.

23 **SECTION 67.** 166.03 (1) (title) and (a) (intro.) of the statutes are repealed.

24 **SECTION 68.** 166.03 (1) (a) 1. of the statutes is renumbered 323.12 (1) (a).

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1 **SECTION 69.** 166.03 (1) (a) 2. of the statutes is renumbered 323.12 (1) (b) and
2 amended to read:

3 323.12 (1) (b) Review state emergency management plans and modifications
4 thereof to the plans.

5 **SECTION 70.** 166.03 (1) (a) 3. of the statutes is renumbered 323.12 (3) and
6 amended to read:

7 323.12 (3) DUTIES DURING AN EMERGENCY. ~~Employ the division of emergency~~
8 ~~management during a state of emergency proclaimed by him or her, During a state~~
9 ~~of emergency declared under s. 323.10, the governor shall issue orders and, delegate~~
10 such authority as is deemed necessary to the administrator, and direct the division
11 to coordinate emergency management activities.

12 **SECTION 71.** 166.03 (1) (a) 4. of the statutes is renumbered 323.12 (1) (c) and
13 amended to read:

14 323.12 (1) (c) Determine responsibilities of state departments and independent
15 agencies in with respect to emergency management and by order direct such those
16 departments and agencies in utilizing personnel, facilities, supplies, and equipment
17 before and during a state of emergency.

18 **SECTION 72.** 166.03 (1) (b) (intro.) and 1. of the statutes are consolidated,
19 renumbered 323.10 and amended to read:

20 **323.10 Declaration by governor.** The governor may: ~~1. Proclaim issue an~~
21 executive order declaring a state of emergency for the state or any portion of the state
22 if he or she determines that an emergency resulting from ~~enemy action or natural~~
23 ~~or man-made a disaster or the imminent threat of a disaster~~ exists. If the governor
24 determines that a public health emergency exists, he or she may declare issue an
25 executive order declaring a state of emergency related to public health for the state

SENATE BILL 226**SECTION 72**

1 or any portion of the state and may designate the department of health services as
2 the lead state agency to respond to that emergency. ~~The duration of such~~ If the
3 governor determines that the emergency is related to computer or
4 telecommunication systems, he or she may designate the department of
5 administration as the lead agency to respond to that emergency. A state of
6 emergency shall not exceed 60 days as ~~to emergencies resulting from enemy action~~
7 ~~or 30 days as to emergencies resulting from natural or man-made disaster, unless~~
8 ~~either~~ the state of emergency is extended by joint resolution of the legislature. A copy
9 of the ~~proclamation~~ executive order shall be filed with the secretary of state. The
10 ~~proclamation~~ executive order may be revoked at the discretion of either the governor
11 by ~~written~~ executive order or the legislature by joint resolution.

12 **SECTION 73.** 166.03 (1) (b) 2. of the statutes is renumbered 323.12 (2) (a).

13 **SECTION 74.** 166.03 (1) (b) 3. of the statutes is renumbered 323.12 (2) (b) and
14 amended to read:

15 323.12 (2) (b) Accept from any source gifts and grants including services for
16 emergency management purposes and may authorize the state, county, town and
17 municipal officers and local units of government to receive such gifts and grants.
18 When grants require ~~county, town or municipal~~ participation by a local unit of
19 government, the state may transfer title to equipment acquired through ~~such an~~
20 agreement ~~to~~ between participating ~~counties, towns and municipalities~~ local units
21 of government.

22 **SECTION 75.** 166.03 (1) (b) 4. of the statutes is renumbered 323.12 (4) (a) and
23 amended to read:

24 323.12 (4) (a) ~~During a state of emergency, declare~~ Declare priority of
25 emergency management contracts over other contracts, allocate materials and

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1 facilities in his or her discretion, and take, use, and destroy, in the name of the state,
2 private property for emergency management purposes. ~~Such taking, use or~~
3 ~~destruction shall be in the name of the state. Records~~ The governor shall be kept keep
4 records of such that action and ~~such.~~ Those records shall be evidence of a claim
5 against the state. ~~Any such~~ The claim against the state shall be referred to the claims
6 board under s. 16.007.

7 **SECTION 76.** 166.03 (1) (b) 5. of the statutes is renumbered 323.12 (4) (b) and
8 amended to read:

9 323.12 (4) (b) ~~During a state of emergency, issue~~ Issue such orders as he or she
10 deems necessary for the security of persons and property.

11 **SECTION 77.** 166.03 (1) (b) 6. of the statutes is renumbered 323.12 (4) (c) and
12 amended to read:

13 323.12 (4) (c) ~~During a state of emergency, contract~~ Contract on behalf of the
14 state with any person to provide, on a cost basis, equipment and services ~~on a cost~~
15 ~~basis to be used in~~ to respond to a disaster relief or the imminent threat of a disaster.

16 **SECTION 78.** 166.03 (1) (b) 8. of the statutes is renumbered 323.12 (4) (d) and
17 amended to read:

18 323.12 (4) (d) ~~During a state of emergency related to public health, suspend~~
19 Suspend the provisions of any administrative rule if the strict compliance with that
20 rule would prevent, hinder, or delay necessary actions to respond to the emergency
21 and increase the health threat to the population disaster.

22 **SECTION 79.** 166.03 (2) (title) of the statutes is repealed.

23 **SECTION 80.** 166.03 (2) (a) (intro.) of the statutes is renumbered 323.13 (1)
24 (intro.) and amended to read:

25 323.13 (1) (intro.) The adjutant general shall do all of the following:

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1 **SECTION 81.** 166.03 (2) (a) 1. of the statutes is renumbered 323.13 (1) (b) and
2 amended to read:

3 323.13 (1) (b) Subject to approval by the governor, develop and promulgate
4 adopt a state plan of emergency management for the security of persons and property
5 ~~which shall be mandatory during a state of emergency.~~ In developing the plan, the
6 adjutant general shall seek the advice of the administrator, shall seek the advice of
7 the department of health services with respect to the emergency medical aspects of
8 the plan, ~~and shall seek the advice of the department of administration with respect~~
9 ~~to aspects of the plan related to computer or telecommunication systems.~~ The plan
10 shall specify equipment and personnel standards, and shall require the use of the
11 incident command system, and specify the type of incident command system, by all
12 emergency response agencies, including local health departments, during a state of
13 emergency declared under ~~sub. (1) (b) 1. or s. 166.23 (1) or in any other~~
14 ~~multi-jurisdictional or multi-agency emergency response~~ s. 323.10 or 323.11.

15 **SECTION 82.** 166.03 (2) (a) 2. of the statutes is renumbered 323.13 (1) (c) and
16 amended to read:

17 323.13 (1) (c) Prescribe and carry out statewide training programs and
18 exercises to develop emergency management proficiency, disseminate information
19 ~~including warnings of enemy action, serve as the principal assistant to the governor~~
20 ~~in the direction of emergency management activities,~~ and coordinate emergency
21 management programs ~~between counties.~~ The training programs shall include
22 training in managing emergency operations utilizing the incident command system
23 for local unit of government officials, officers, and employees whose duties include
24 responding to emergencies a disaster or the imminent threat of a disaster, including
25 officers and employees of local health departments. The adjutant general shall

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1 consult with the administrator, with the department of health services regarding the
2 provision of incident command system training to local health department
3 personnel, and with the department of administration regarding the provision of
4 incident command system training for emergencies related to computer or
5 telecommunication systems. To the extent possible, the adjutant general shall
6 utilize federal funding to provide incident command system training.

7 **SECTION 83.** 166.03 (2) (a) 3. of the statutes is renumbered 323.13 (1) (d) and
8 amended to read:

9 323.13 (1) (d) ~~Furnish guidance and develop and promulgate~~ establish
10 standards for emergency management programs for ~~counties, cities, villages, and~~
11 ~~towns~~ local units of government, and prescribe nomenclature for all levels of
12 emergency management, with the advice of the administrator. The standards shall
13 include a requirement that ~~county, city, village, and town~~ local unit of government
14 emergency management programs adopted under ~~sub. (4) (a) s. 323.14 (1) (a) 1. and~~
15 (b) 1. utilize the incident command system during a state of emergency declared
16 under ~~sub. (1) (b) 1. or s. 166.23 (1) s. 323.10 or 323.11~~ or in any other
17 multi-jurisdictional or multi-agency emergency response. The standards for fire,
18 rescue, and emergency medical services shall include the adoption of the
19 intergovernmental cooperation Mutual Aid Box Alarm System as a mechanism that
20 may be used for deploying personnel and equipment in a multi-jurisdictional or
21 multi-agency emergency response. ~~The adjutant general shall promulgate these~~
22 ~~standards as rules.~~ The standards for agencies that manage public works shall
23 include the suggestion that the local unit of government, or a federally recognized
24 American Indian tribe or band in this state, adopt the mutual assistance agreement
25 created by the division for the intergovernmental collaboration of public works

SENATE BILL 226**SECTION 83**

1 personnel, equipment, and resources in a multi-jurisdictional or multi-agency
2 emergency response. The adjutant general shall consult with representatives of
3 public works professional associations and organizations regarding the content of
4 that agreement.

5 **SECTION 84.** 166.03 (2) (a) 4. of the statutes is repealed.

6 **SECTION 85.** 166.03 (2) (a) 5. of the statutes is renumbered 323.13 (1) (e).

7 **SECTION 86.** 166.03 (2) (a) 6. of the statutes is renumbered 323.13 (1) (f), and
8 323.13 (1) (f) (intro.), as renumbered, is amended to read:

9 323.13 (1) (f) (intro.) No later than 90 days after a state of emergency relating
10 to public health is declared and the department of health services is not designated
11 under s. ~~166.03(1)(b)1.~~ 323.10 as the lead state agency to respond to that emergency
12 and no later than 90 days after the termination of this state of emergency relating
13 to public health, submit to the legislature under s. 13.172 (2) and to the governor a
14 report on all of the following:

15 **SECTION 87.** 166.03 (2) (b) (intro.) of the statutes is renumbered 323.13 (2)
16 (intro.) and amended to read:

17 323.13 (2) ONGOING POWERS. (intro.) The adjutant general may do all of the
18 following:

19 **SECTION 88.** 166.03 (2) (b) 1. of the statutes is renumbered 323.13 (2) (a) and
20 amended to read:

21 323.13 (2) (a) Divide the state into emergency management areas regions
22 composed of whole counties ~~by general or special written orders,~~ subject to approval
23 by the governor, and modify the boundaries ~~thereof~~ of those regions as changed
24 conditions warrant. ~~Such areas shall be classified and designated in accordance with~~
25 ~~standards promulgated under the federal civil defense act of 1950, as amended.~~

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1 **SECTION 89.** 166.03 (2) (b) 2. of the statutes is renumbered 323.13 (2) (b) and
2 amended to read:

3 323.13 (2) (b) Appoint a head director of emergency management for each area
4 ~~established in accordance with subd. 1. region under par. (a)~~ under the classified
5 service on either a part-time or full-time basis, or ~~may request~~ ask the governor to
6 designate any state officer or employee as acting ~~area head~~ regional director on a
7 part-time basis.

8 **SECTION 90.** 166.03 (2) (b) 3. of the statutes is renumbered 323.13 (2) (c).

9 **SECTION 91.** 166.03 (2) (b) 4. of the statutes is renumbered 323.13 (2) (d).

10 **SECTION 92.** 166.03 (2) (b) 5. of the statutes is renumbered 323.13 (2) (e) and
11 amended to read:

12 323.13 (2) (e) Organize and train state mobile support units to aid any ~~area~~
13 region during a state of emergency. ~~Such~~ The units may participate in training
14 programs and exercises ~~both within and~~ or outside the state.

15 **SECTION 93.** 166.03 (2) (b) 6. of the statutes is renumbered 323.13 (2) (f) and
16 amended to read:

17 323.13 (2) (f) Request the department of health services to inspect or provide
18 for the inspection of shipments of radioactive waste, obtain and analyze data
19 concerning the radiation level of shipments of radioactive waste and issue reports
20 concerning these shipments and radiation levels. The adjutant general may assess
21 and collect and receive contributions for any costs incurred under this subdivision
22 paragraph from any person who produced the radioactive waste which is the subject
23 of the activity for which the costs are incurred. In this ~~subdivision~~ paragraph,
24 “radioactive waste” has the meaning given in s. 293.25 (1) (b).

25 **SECTION 94.** 166.03 (2) (b) 7. of the statutes is renumbered 323.13 (2) (g).

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1 **SECTION 95.** 166.03 (2) (b) 8. of the statutes is renumbered 323.30 and amended
2 to read:

3 **323.30 Federal disaster assistance.** ~~Make~~ The adjutant general shall make
4 payments from the appropriation under s. 20.465 (3) (e) to pay this state’s share of
5 grants to individuals and to provide a share of any required state share of
6 contributions to local governments, as defined in 42 USC 5122 (6), for major disaster
7 recovery assistance. Payment of this state’s share of any contribution to a local
8 government under this ~~subdivision~~ section is contingent upon copayment of that
9 share by the local government, but not to exceed 12.5% of the total eligible cost of
10 assistance. No payment may be made under this ~~subdivision~~ section without the
11 prior approval of the secretary of administration.

12 **SECTION 96.** 166.03 (2) (b) 9. of the statutes is renumbered 323.31 and amended
13 to read:

14 **323.31 State disaster assistance.** From the appropriations under s. 20.465
15 (3) (b) and (s), the adjutant general shall make payments to local governmental units,
16 as defined in s. 19.42 (7u), and to federally recognized American Indian tribes and
17 bands in this state for the damages and costs incurred as the result of a ~~major~~
18 ~~eatastrophe~~ disaster if federal disaster assistance is not available for that
19 ~~eatastrophe~~ disaster because the governor’s request that the president declare the
20 ~~eatastrophe~~ disaster a major disaster under 42 USC 5170 has been denied or because
21 the disaster, as determined by the department of military affairs, does not meet the
22 statewide or countywide per capita impact indicator under the public assistance
23 program that is issued by the federal emergency management agency. To be eligible
24 for a payment under this ~~subdivision~~ section, the local governmental unit or tribe or
25 band shall pay 30 percent of the amount of the damages and costs resulting from the

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1 natural disaster. The department of military affairs shall promulgate rules
2 establishing the application process and the criteria for determining eligibility for
3 payments under this ~~subdivision~~ section.

4 **SECTION 97.** 166.03 (3) of the statutes is repealed.

5 **SECTION 98.** 166.03 (4) (title) of the statutes is renumbered 323.14 (title) and
6 amended to read:

7 **323.14** (title) ~~**Powers and Local government; duties of counties and**~~
8 ~~**municipalities and powers.**~~

9 **SECTION 99.** 166.03 (4) (a) of the statutes is renumbered 323.14 (1) (b) 1. and
10 amended to read:

11 323.14 (1) (b) 1. The governing body of each ~~county, city, village, or town and~~
12 ~~municipality~~ shall develop and adopt an ~~effective program~~ of emergency
13 management ~~consistent plan and program that is compatible~~ with the state plan of
14 emergency management and, ~~except at the county level in counties having a county~~
15 ~~executive, adopted under s. 323.13 (1) (b).~~

16 2. The governing body of each city, village, or town shall appoint designate a
17 head of emergency management services. Each such may appropriate funds and levy
18 taxes for this program.

19 **SECTION 100.** 166.03 (4) (b) of the statutes is renumbered 323.14 (1) (a) 2. and
20 amended to read:

21 323.14 (1) (a) 2. Each county board shall designate a head of emergency
22 management. In counties having a county executive under s. 59.17, the county board
23 shall designate the county executive or confirm his or her appointee as county head
24 of emergency management services. Notwithstanding sub. (2) (b), an individual may

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1 not simultaneously serve as the head of emergency management for 2 or more
2 counties.

3 **SECTION 101.** 166.03 (4) (c) of the statutes is renumbered 323.14 (1) (a) 3. and
4 amended to read:

5 323.14 (1) (a) 3. Each county board shall designate a committee of the board
6 as a county emergency management committee whose The chairperson of the
7 county board shall be a member of the committee designated by designate the
8 chairperson of the county board. The committee, in. In counties having a county
9 executive under s. 59.17, the committee shall retain policy-making and rule-making
10 powers in the establishment and development of county emergency management
11 plans and programs.

12 **SECTION 102.** 166.03 (4) (d) of the statutes is renumbered 323.14 (3) (b) and
13 amended to read:

14 323.14 (3) (b) During ~~the continuance of~~ a state of emergency proclaimed
15 declared by the governor ~~the county board of each county, a local unit of government~~
16 situated within the area to which the governor's ~~proclamation~~ executive order
17 applies may employ ~~the county emergency management organization and the~~
18 personnel, facilities, and other resources of ~~the organization~~ consistent with the plan
19 adopted under sub. (1) (a) 1. or (b) 1. to cope with the problems of ~~the emergency, and~~
20 ~~the governing body of each municipality and town situated within the area shall have~~
21 similar authority with respect to municipal emergency management organizations,
22 ~~facilities and resources~~ that resulted in the governor declaring the emergency.
23 Nothing in this chapter prohibits ~~counties and municipalities~~ local units of
24 government from employing their emergency management organizations personnel,
25 facilities, and resources consistent with the plan adopted under sub. (1) (a) 1. or (b)

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1 1. to cope with the problems of local ~~public emergencies~~ disasters except where
2 restrictions are imposed by federal regulations on property donated by the federal
3 government.

4 **SECTION 103.** 166.03 (5) (title) of the statutes is repealed.

5 **SECTION 104.** 166.03 (5) (a) of the statutes is renumbered 323.15 (1) (a) and
6 amended to read:

7 323.15 (1) (a) The head of emergency management ~~services in~~ for each county,
8 ~~town and municipality~~ local unit of government shall for his or her respective county,
9 ~~town or municipality, develop and promulgate emergency management plans~~
10 ~~consistent with state plans, direct the emergency management program~~ implement
11 the plan adopted under s. 323.14 (1) (a) 1. or (b) 1., whichever is applicable, and
12 perform such other duties related to emergency management as are required by the
13 governing body and the emergency management committee of the governing body
14 when applicable. The emergency management plans shall require the use of the
15 incident command system by all emergency response agencies, including local health
16 departments, during a state of emergency declared under ~~sub. (1) (b) 1. or s. 166.23~~
17 ~~(1) or in any other multi-jurisdictional or multi-agency emergency response s.~~
18 323.10 or 323.11.

19 **SECTION 105.** 166.03 (5) (b) of the statutes is renumbered 323.15 (1) (b) and
20 amended to read:

21 323.15 (1) (b) The head of emergency management ~~services in~~ for each county
22 shall coordinate and assist in developing city, village, and ~~town and municipal~~
23 emergency management plans within the county, integrate ~~such~~ the plans with the
24 county plan, advise the department of military affairs of all emergency management
25 planning in the county and submit to the adjutant general ~~such~~ the reports as that

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1 he or she requires, direct and coordinate emergency management activities
2 throughout the county during a state of emergency, and direct countywide
3 emergency management training programs and exercises.

4 **SECTION 106.** 166.03 (5) (c) of the statutes is renumbered 323.15 (1) (c) (intro.)
5 and amended to read:

6 323.15 (1) (c) (intro.) The head of emergency management services in each city,
7 village and town and municipality shall direct do all of the following:

8 1. Direct local emergency management training programs and exercises,
9 direct,

10 2. Direct participation in emergency management programs and exercises that
11 are ordered by the adjutant general and or the county head of emergency
12 management services, and advise,

13 3. Advise the county head of emergency management services on local
14 emergency management programs and submit to him or her such,

15 4. Submit to the county head of emergency management any reports as he or
16 she requires.

17 **SECTION 107.** 166.03 (5) (d) of the statutes is renumbered 323.15 (4) and
18 amended to read:

19 323.15 (4) POWERS DURING AN EMERGENCY. During ~~the continuance of~~ a state of
20 emergency ~~proclaimed~~ declared by the governor, the head of emergency management
21 services in for each county, town and municipality local unit of government, on behalf
22 of his or her respective county, town or municipality local unit of government, may
23 contract with any person to provide equipment and services on a cost basis to be used
24 in disaster relief to respond to a disaster, or the imminent threat of a disaster.

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1 **SECTION 108.** 166.03 (5a) of the statutes is renumbered 323.01 (2) and amended
2 to read:

3 323.01 (2) ~~ROLE OF STATE AGENCY IN EMERGENCY.~~ Unless otherwise specified by
4 law, the role of any state agency, including the department of military affairs and its
5 division of emergency government the division, in an emergency declared under this
6 chapter, is to assist local units of government and local law enforcement agencies in
7 responding to ~~the emergency~~ a disaster or the imminent threat of a disaster.

8 **SECTION 109.** 166.03 (6) of the statutes is renumbered 323.20 and amended to
9 read:

10 **323.20 Emergency use of vehicles.** In responding to an official request for
11 help during any declared state of emergency, any person may operate a boat or any
12 motor vehicle without regard for motor vehicle registration laws and without being
13 subject to arrest under s. 341.04, including a snowmobile or all-terrain vehicle, that
14 is not registered in this state.

15 **SECTION 110.** 166.03 (7) (title) of the statutes is repealed.

16 **SECTION 111.** 166.03 (7) (a) of the statutes is renumbered 323.14 (2) (b) and
17 amended to read:

18 323.14 (2) (b) ~~Counties, towns and municipalities~~ Local units of government
19 may cooperate under s. 66.0301 to furnish services, combine offices, and finance
20 emergency management ~~services~~ programs.

21 **SECTION 112.** 166.03 (7) (b) of the statutes is renumbered 323.14 (2) (c) and
22 amended to read:

23 323.14 (2) (c) ~~Counties, towns and municipalities~~ Local units of government
24 may contract for emergency management services with political subdivisions,
25 ~~emergency management units and civil defense units~~ agencies, and federally

SENATE BILL 226**SECTION 112**

1 recognized American Indian tribes and bands of this state, and, upon prior approval
2 of the adjutant general, with such entities in bordering states. A copy of each such
3 agreement shall be filed with the adjutant general within 10 days after execution
4 thereof of that agreement.

5 **SECTION 113.** 166.03 (7) (c) of the statutes is repealed.

6 **SECTION 114.** 166.03 (8) (title) of the statutes is renumbered 323.25 (title) and
7 amended to read:

8 **323.25 (title) Personnel restrictions.**

9 **SECTION 115.** 166.03 (8) (a) to (c) of the statutes are renumbered 323.25 (1) to
10 (3) and amended to read:

11 323.25 (1) No personnel, while performing emergency management
12 organization established functions consistent with a plan adopted under this section
13 s. 323.13 (1) (b) or 323.14 (1) (a) 1. or (b) 1., shall participate in any form of political
14 activity or be employed directly or indirectly for any political activity.

15 (2) No personnel, while performing emergency management ~~organization~~
16 established functions consistent with a plan adopted under this section ~~s. 323.13 (1)~~
17 (b) or 323.14 (1) (a) 1. or (b) 1., shall be employed to interfere with the orderly process
18 of a labor dispute.

19 (3) No person shall may be employed or associated in any capacity in any state
20 or local unit of government emergency management ~~organization~~ under this section
21 program under s. 323.13 (1) (b) or 323.14 (1) (a) 1. or (b) 1. who advocates a change
22 by force or violence in the constitutional form of government of the United States or
23 this state or who has been convicted of or is under indictment or information charging
24 any subversive act against the United States.

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1 **SECTION 116.** 166.03 (9) of the statutes is renumbered 323.43 and amended to
2 read:

3 **323.43 Bearing of losses.** ~~Any~~ Subject to s. 323.42, any loss arising from the
4 damage to or destruction of government-owned equipment utilized in any
5 authorized emergency management activity shall be borne by the owner thereof of
6 the equipment.

7 **SECTION 117.** 166.03 (10) of the statutes is renumbered 323.45 and amended
8 to read:

9 **323.45 ~~Exemption from liability~~ Providers of equipment and other**
10 **items.** (1) ~~No~~ Except as provided in subs. (2) and (4), no person who provides
11 equipment, materials, facilities, labor, or services is liable for the death of or injury
12 to any person or damage to any property caused by his or her actions if the person
13 did so under all of the following conditions:

14 (a) Under the direction of the governor, the adjutant general, the governing
15 body, chief or acting chief executive officer, or head of emergency management
16 services of any ~~county, town, municipality,~~ local unit of government or federally
17 recognized American Indian tribe or band in this state, the department of health
18 services if that department is designated by the governor under s. ~~166.03 (1) (b) 1-~~
19 323.10, or the local health department acting under s. 251.05 (3) (e).

20 (b) In response to enemy action, a ~~natural or man-made~~ disaster, or a federally
21 declared state of emergency or during a state of emergency declared by the governor.

22 (2) This ~~subsection~~ section does not apply if the person's act or omission
23 involved reckless, wanton, or intentional misconduct.

24 (3) This ~~subsection~~ section does not affect the right of any person to receive
25 benefits to which he or she otherwise would be entitled under the worker's

SENATE BILL 226**SECTION 117**

1 compensation law or under any pension law, nor does it affect entitlement to any
2 other benefits or compensation authorized by state or federal law.

3 **SECTION 118.** 166.03 (11) of the statutes is renumbered 323.16 and amended
4 to read:

5 **323.16 Powers of peace law enforcement officers.** During any state of
6 emergency ~~proclaimed~~ declared by the governor or during any training program or
7 exercises authorized by the adjutant general, any ~~peace officer or traffic law~~
8 enforcement officer of the state, or of a county, city, village or town, when legally
9 engaged in traffic control, escort duty, or protective service, may carry out such ~~the~~
10 functions at ~~any point within~~ anywhere in the state but shall be subject to the
11 direction of the adjutant general through the sheriff of the county in which an
12 assigned function is performed.

13 **SECTION 119.** 166.03 (12) of the statutes is renumbered 323.01 (3) and amended
14 to read:

15 323.01 (3) ~~RED CROSS NOT AFFECTED.~~ Nothing contained in this section shall
16 This chapter may not limit or in any way affect the responsibility of the American
17 National Red Cross as authorized by the congress of the United States.

18 **SECTION 120.** 166.03 (13) of the statutes is renumbered 323.13 (1) (dm) and
19 amended to read:

20 323.13 (1) (dm) ~~Authority to withhold grants.~~ If the adjutant general finds that
21 any political subdivision of the state a local unit of government has not complied with
22 the requirement of this section that it establish and maintain an operating
23 developed, adopted, and implemented an emergency management organization, he
24 or she may plan as required under s. 323.14 (1), refuse to approve grants of funds or
25 items of equipment awarded under this chapter to such political subdivision the local

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1 ~~unit of government~~ until it complies ~~the local unit of government does so~~. If such
2 ~~political subdivision~~ the local unit of government fails to use the funds or items of
3 equipment granted ~~to it through the adjutant general~~ in accordance with the
4 agreement under which the grant was made, the adjutant general may refuse to
5 make any additional grants to such ~~political subdivision~~ the local unit of government
6 until it has complied with the conditions of the prior grant, and he or she may start
7 recovery proceedings on the funds and items of equipment ~~which~~ that have not been
8 used in accordance with the conditions of the grant.

9 SECTION 121. 166.03 (14) of the statutes is renumbered 323.28 and amended
10 to read:

11 **323.28 Penalties.** Whoever intentionally fails to comply with ~~the directives~~
12 ~~of an order issued by an agent of the state or of a local unit of government who is~~
13 engaged in emergency management ~~authorities promulgated activities~~ under this
14 section ~~during a state of emergency or during any~~ chapter, including training
15 program ~~or exercises may be fined, is subject to a forfeiture of not more than \$200~~
16 ~~or imprisoned not more than 90 days or both.~~

17 SECTION 122. 166.04 of the statutes is renumbered 323.12 (2) (c) and amended
18 to read:

19 323.12 (2) (c) *State traffic patrol and conservation warden duties during civil*
20 *disorder.* ~~Without proclaiming a state of emergency, If the governor may, in writing~~
21 ~~filed with the secretary of state, determine~~ determines that there exists a condition
22 of civil disorder or a threat to the safety of persons on state property or damage or
23 destruction to state property. ~~Upon such filing exists, he or she may, without~~
24 declaring an emergency, call out the state traffic patrol or the conservation warden
25 ~~force~~ service or members thereof of that patrol or service for use in connection with

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1 such the threat to such life or property. For the duration of such threat, as
2 determined by the governor, such officers shall have the powers of a peace officer as
3 set forth in s. 59.28, except that such officers shall not be used in or take part in any
4 dispute or controversy between employer or employee concerning wages, hours,
5 labor or working conditions.

6 **SECTION 123.** 166.05 (title) of the statutes is renumbered 323.51 (title).

7 **SECTION 124.** 166.05 (1) of the statutes is renumbered 323.51 (1) and amended
8 to read:

9 323.51 (1) DESIGNATION AND USE OF A TEMPORARY LOCATION BY THE GOVERNOR.

10 Whenever, during a state of emergency as the result of a disaster or the imminent
11 threat of a disaster, it becomes imprudent, inexpedient or impossible to conduct the
12 affairs of state government at the state capital, the governor shall, as often as the
13 exigencies of the situation require, by proclamation designate an emergency a
14 temporary location for the seat of government at such a place within or without in
15 or outside this state as he or she deems advisable, and. The governor shall take such
16 any action and issue such any orders as are necessary for an orderly transition of the
17 affairs of state government to such emergency the temporary location. If practicable,
18 the emergency temporary location so designated by the governor designates shall
19 conform to that provided for in the current emergency management plan authorized
20 by s. 166.03. Such emergency under subch. II. The temporary location shall remain
21 as the seat of government until the governor establishes a new location under this
22 section, or until the emergency is ended under s. 166.03 and the seat of government
23 is returned to its normal location.

24 **SECTION 125.** 166.05 (2) of the statutes is renumbered 323.51 (2) and amended
25 to read:

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1 323.51 (2) EXERCISE OF GOVERNMENTAL AUTHORITY. While the seat of government
2 remains at such a temporary location all official acts required by law to be performed
3 at the seat of government by any officer, independent agency, department, or
4 authority of this state, including the convening and meeting of the legislature in
5 regular or special session under sub. (1), shall be as valid and binding when
6 performed at such emergency the temporary location as if performed at the normal
7 location.

8 **SECTION 126.** 166.06 (title) of the statutes is renumbered 323.52 (title) and
9 amended to read:

10 **323.52** (title) ~~Emergency temporary~~ **Temporary locations of**
11 **government for counties, towns and municipalities local units of**
12 **government.**

13 **SECTION 127.** 166.06 (1) of the statutes is renumbered 323.52 (1) and amended
14 to read:

15 323.52 (1) DESIGNATION OF EMERGENCY TEMPORARY LOCATIONS. Whenever during
16 a state of emergency it becomes imprudent, inexpedient, or impossible to conduct the
17 affairs of local government at the regular or usual place ~~or places thereof~~, the
18 governing body of each county, town and municipality of this state local unit of
19 government may meet at any place within or without the territorial limits of such
20 ~~political subdivision~~ the local unit of government on the call of the presiding officer
21 or his or her successor, and shall proceed to establish and designate by ordinance,
22 resolution, or other manner, alternate or substitute sites ~~or places~~ as the emergency
23 temporary locations of government where all, or any part, of the public business may
24 be transacted and conducted during the emergency situation. Such alternate or
25 substitute site ~~or places~~ may be within or without the territorial limits of such county,

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1 ~~town or municipality~~ the local unit of government and may be within or without those
2 of the state. If practicable, they shall be the sites ~~or~~ places designated as the
3 ~~emergency~~ temporary locations of government in the current emergency
4 management plan.

5 **SECTION 128.** 166.06 (2) of the statutes is renumbered 323.52 (2) and amended
6 to read:

7 **323.52 (2) EXERCISE OF GOVERNMENTAL AUTHORITY.** While the public business is
8 being conducted at ~~an emergency~~ a temporary location, the governing body and other
9 officers of a ~~county, town or municipality of this state~~ local unit of government shall
10 ~~have, possess and exercise, at such location,~~ all of the executive, legislative,
11 administrative, and judicial powers and functions conferred upon ~~such~~ the body and
12 officers under state law. ~~Such~~ Those powers and functions, except judicial, may be
13 exercised in the light of the exigencies of the emergency situation without regard to
14 or compliance with time-consuming procedures and formalities prescribed by law
15 ~~and pertaining thereto.~~ All acts of ~~such~~ the body and officers shall be as valid and
16 binding as if performed within the territorial limits of their ~~county, town or~~
17 ~~municipality~~ local unit of government.

18 **SECTION 129.** 166.06 (3) of the statutes is repealed.

19 **SECTION 130.** 166.07 (title) of the statutes is renumbered 323.54 (title) and
20 amended to read:

21 **323.54 (title) Succession to office; local offices officers.**

22 **SECTION 131.** 166.07 of the statutes is renumbered 323.54 (1) and amended to
23 read:

24 **323.54 (1)** The governing body of any ~~county, town or municipality~~ political
25 subdivision may enact ~~such~~ ordinances and resolutions ~~as are necessary to provide~~

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1 ~~for the continuity of government in the event of and throughout the duration of a~~
2 ~~state of emergency resulting from enemy action. Such ordinances and resolutions~~
3 ~~shall to provide a method by which temporary emergency interim appointments to~~
4 ~~public office are made, except as limited by express constitutional provisions and~~
5 ~~during periods of emergency to fill vacancies in offices that result from enemy action.~~
6 ~~The ordinances or resolutions shall define the scope of the powers and duties ~~which~~~~
7 ~~that interim appointees may be exercised exercise, and shall provide for termination~~
8 ~~of the appointment so made. This section shall control notwithstanding any~~
9 ~~statutory provision to the contrary or in conflict herewith interim appointments.~~

10 **SECTION 132.** 166.08 (title) of the statutes is renumbered 323.53 (title) and
11 amended to read:

12 **323.53 (title) Succession to office; state officers.**

13 **SECTION 133.** 166.08 (1) of the statutes is repealed.

14 **SECTION 134.** 166.08 (2) (intro.) of the statutes is renumbered 323.50 (intro.)
15 and amended to read:

16 **323.50 Definitions.** (intro.) ~~As used in In this section unless the context~~
17 ~~clearly requires otherwise subchapter:~~

18 **SECTION 135.** 166.08 (2) (a) of the statutes is repealed.

19 **SECTION 136.** 166.08 (2) (b) of the statutes is renumbered 323.50 (1) and
20 amended to read:

21 323.50 (1) ~~“Emergency interim~~ “Interim successor” means a person designated
22 under this section ~~subchapter~~, if the officer is unavailable as the result of enemy
23 action, to exercise the powers and discharge the duties of an office until a successor
24 is appointed or elected and qualified as provided by law or until the lawful incumbent
25 is able to resume the exercise of the powers and discharge the duties of the office.

SENATE BILL 226**SECTION 137**

1 **SECTION 137.** 166.08 (2) (c) of the statutes is renumbered 323.50 (2) and
2 amended to read:

3 323.50 (2) “Office” includes all state and local offices, the powers and duties of
4 which are defined by law, except the office of governor, and except those in the
5 legislature and the judiciary. ~~An “officer” is~~

6 (3) “Officer” means a person who holds an office.

7 **SECTION 138.** 166.08 (2) (d) of the statutes is renumbered 323.50 (4) and
8 amended to read:

9 323.50 (4) “Political subdivision” includes ~~counties, towns, municipalities~~ local
10 units of government, special districts, authorities, and other public corporations and
11 entities whether organized and existing under charter or general law.

12 **SECTION 139.** 166.08 (2) (e) of the statutes is renumbered 323.50 (5) and
13 amended to read:

14 323.50 (5) “Unavailable” means that ~~during a state of emergency resulting~~
15 ~~from enemy action, either~~ a vacancy in office exists and there is no deputy authorized
16 to exercise all of the powers and discharge the duties of the office, or that the lawful
17 incumbent of the office and his or her duly authorized deputy are absent or unable
18 to exercise the powers and discharge the duties of the office.

19 **SECTION 140.** 166.08 (3) of the statutes is renumbered 323.53 (1) and amended
20 to read:

21 323.53 (1) EMERGENCY INTERIM SUCCESSORS TO OFFICE OF GOVERNOR. If, during
22 a state of emergency resulting from enemy action, the governor is unavailable, and
23 if the lieutenant governor and the secretary of state are unavailable, the attorney
24 general, state treasurer, speaker of the assembly, and the president of the senate
25 shall in the order named if the preceding named officers are unavailable, exercise the

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1 powers and discharge the duties of the office of governor until a new governor is
2 elected and qualified, or until a preceding named officer becomes available; but no
3 ~~emergency~~ interim successor to the ~~mentioned~~ those offices may serve as
4 governor.

5 **SECTION 141.** 166.08 (4) of the statutes is renumbered 323.53 (2), and 323.53
6 (2) (title), (a) and (b) (intro.) and 3., as renumbered, are amended to read:

7 323.53 (2) (title) ~~EMERGENCY INTERIM~~ INTERIM SUCCESSORS FOR OTHER STATE
8 OFFICERS. (a) All state officers, subject to ~~such~~ regulations as that the governor, or
9 other official authorized under the constitution or this section to exercise the powers
10 and discharge the duties of the office of governor, may issue, shall, in addition to any
11 deputy authorized to exercise all of the powers and discharge the duties of the office,
12 designate by title ~~emergency~~ interim successors and specify their order of succession.
13 The officer shall review and revise, as necessary, designations made ~~pursuant to~~
14 under this section to ensure their current status. The officer shall designate a
15 sufficient number of ~~emergency~~ interim successors so that there will be not less fewer
16 than 3 nor more than 7 deputies or ~~emergency~~ interim successors or any combination
17 of deputies or ~~emergency~~ interim successors, at any time.

18 (b) (intro.) If, during a state of emergency resulting from enemy action, any
19 state officer is unavailable ~~following an attack,~~ and if his or her deputy, if any, is also
20 unavailable, the powers of his or her office shall be exercised and the duties of his or
21 her office shall be discharged by his or her designated ~~emergency~~ interim successors
22 in the order specified. The ~~emergency~~ interim successor shall exercise the powers
23 and discharge the duties of the office only until any of the following occurs:

SENATE BILL 226**SECTION 141**

1 3. An officer, the officer's deputy or a preceding named emergency interim
2 successor becomes available to exercise, or resume the exercise of, the powers and
3 discharge the duties of the office.

4 **SECTION 142.** 166.08 (5) of the statutes is repealed.

5 **SECTION 143.** 166.08 (6) (title) of the statutes is repealed.

6 **SECTION 144.** 166.08 (6) of the statutes is renumbered 323.54 (2) and amended
7 to read:

8 323.54 (2) ~~This section applies to officers of all political subdivisions not~~
9 ~~included in sub. (5). Such officers, Each officer of a political subdivision for whom an~~
10 ~~interim successor is not determined by ordinance or resolution adopted under sub.~~
11 ~~(1) shall,~~ subject to such regulations as the executive head of the political subdivision
12 issues, shall designate by title, if feasible, or by named person, emergency interim
13 successors and specify their order of succession. The officer shall review and revise,
14 as necessary, designations made pursuant to this section to ensure their current
15 status. The officer shall designate a sufficient number of persons so that there will
16 be not less fewer than 3 nor more than 7 deputies or emergency interim successors
17 or any combination thereof at any time. If any officer of any political subdivision or
18 his or her deputy provided for pursuant to law is unavailable, the powers of the office
19 shall be exercised and duties shall be discharged by his or her designated emergency
20 interim successors in the order specified. The emergency interim successor shall
21 exercise the powers and discharge the duties of the office to which designated until
22 ~~such time as a the vacancy which may exist that exists~~ is filled in accordance with
23 the constitution or statutes or until the officer or his or her deputy or a preceding
24 emergency interim successor again becomes available to exercise the powers and
25 discharge the duties of his or her office.

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1 **SECTION 145.** 166.08 (7) of the statutes is renumbered 323.55 (1) and amended
2 to read:

3 323.55 (1) STATUS AND QUALIFICATIONS OF DESIGNEES. No person shall ~~may~~ be
4 designated or serve as an emergency interim successor under this subchapter unless
5 he or she is eligible under the constitution and statutes to hold the office to which
6 powers and duties he or she is designated to succeed, but no constitutional or
7 statutory provision prohibiting local or state officials from holding another office
8 shall be applicable to an emergency interim successor.

9 **SECTION 146.** 166.08 (8) of the statutes is renumbered 323.55 (2) and amended
10 to read:

11 323.55 (2) FORMALITIES OF TAKING OFFICE. ~~Emergency interim~~ Interim
12 successors shall take such oath as may be any oath required for them to exercise the
13 powers and discharge the duties of the office to which they may succeed. No person,
14 as a prerequisite to the exercise of the powers or discharge of the duties of an office
15 to which he or she succeeds, shall be required to comply with any other provision of
16 law relative to taking office.

17 **SECTION 147.** 166.08 (9) of the statutes is renumbered 323.55 (3) and amended
18 to read:

19 323.55 (3) PERIOD ~~IN~~ DURING WHICH AUTHORITY MAY BE EXERCISED. ~~Officials~~
20 ~~authorized to act as governor pursuant to this section and emergency interim~~
21 ~~successors are empowered to exercise the powers and discharge the duties of an office~~
22 ~~as herein authorized~~ An interim successor to an office may discharge the duties of
23 the office only during the continuance of an emergency resulting from enemy action
24 in the form of an attack. The legislature, by joint resolution, may at any time
25 terminate the authority of said ~~emergency~~ an interim successors successor to

SENATE BILL 226**SECTION 147**

1 exercise the powers and discharge the duties of office as ~~herein~~ provided in this
2 subchapter.

3 **SECTION 148.** 166.08 (10) of the statutes is renumbered 323.55 (4) and amended
4 to read:

5 323.55 (4) REMOVAL OF DESIGNEES. Until such time as the persons designated
6 as emergency interim successors are authorized to exercise the powers and discharge
7 the duties of an office in accordance with this section, ~~said~~ subchapter, those persons
8 shall serve in their designated capacities at the pleasure of the designating authority.

9 **SECTION 149.** 166.08 (11) of the statutes is renumbered 323.55 (5) and amended
10 to read:

11 323.55 (5) DISPUTES. Any dispute concerning a question of fact arising under
12 this section subchapter with respect to an office in the executive branch of the state
13 government, except a dispute of fact relative to the office of governor, shall be
14 adjudicated by the governor or other official authorized under the constitution or this
15 section subchapter to exercise the powers and discharge the duties of the office of
16 governor and his or her decision shall be final.

17 **SECTION 150.** 166.09 of the statutes is renumbered 323.44 and amended to
18 read:

19 **323.44 Public shelters; immunity from civil liability.** (1) Any person
20 owning or controlling real estate ~~or other premises~~ property who voluntarily and
21 without compensation grants to the state or any of its political subdivisions a license
22 ~~or privilege, or otherwise~~ permits the state or any of its political subdivisions to
23 inspect, designate, and use the whole or any part thereof of the real property for the
24 purpose of sheltering persons during an actual, impending, mock or practice attack
25 shall, ~~together with his or her successors in interest, if any, not be civilly liable a~~

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1 disaster, an imminent threat of a disaster, or a related training exercise is immune
2 from civil liability for negligently causing the death of or injury to any person on or
3 about such real estate or premises under such license, privilege or permission or for
4 loss or damage to the real property of such person while it is being used to shelter
5 persons during a disaster, an imminent threat of a disaster, or a related training
6 exercise, if the owner or controller has complied with sub. (2).

7 (2) Any person owning or controlling real estate or other premises property who
8 gratuitously grants the use thereof of that real property for the purposes stated in
9 sub. (1) shall make known to the licensee any hidden dangers or safety hazards which
10 are known to the owner or occupant of said the real estate or premises which property
11 that might possibly result in death or injury or loss of property to any person making
12 use thereof of the property.

13 **SECTION 151.** 166.10 (intro.) of the statutes is repealed.

14 **SECTION 152.** 166.10 (1) to (5) of the statutes are renumbered 16.61 (3) (d) 1.
15 to 5.

16 **SECTION 153.** 166.15 (title) of the statutes is renumbered 895.065 (title).

17 **SECTION 154.** 166.15 (1) (intro.), (a), (b), (c) and (d) of the statutes are
18 renumbered 895.065 (1) (intro.), (a), (b), (c) and (d).

19 **SECTION 155.** 166.15 (1) (e) of the statutes is renumbered 895.065 (1) (e), and
20 895.065 (1) (e) 6., as renumbered, is amended to read:

21 895.065 (1) (e) 6. Expenses incurred by an emergency provider in preparing for
22 and responding to a nuclear incident which that are not reimbursed under s. 166.03
23 (1) (b) 2. or 3. or (2) (b) 7. or 292.11 (7) or that are not paid by another state under a
24 mutual aid agreement or by a gift or grant.

SENATE BILL 226**SECTION 156**

1 **SECTION 156.** 166.15 (1) (f) to (k), (2), (3), (4) and (5) of the statutes are
2 renumbered 895.065 (1) (f) to (k), (2), (3), (4) and (5).

3 **SECTION 157.** 166.20 (title) of the statutes is renumbered 323.60 (title).

4 **SECTION 158.** 166.20 (1) (intro.) of the statutes is renumbered 323.60 (1) (intro.)
5 and amended to read:

6 323.60 (1) DEFINITIONS. (intro.) In ~~ss. 166.20 to 166.215~~ this subchapter:

7 **SECTION 159.** 166.20 (1) (b) and (c) of the statutes are renumbered 323.60 (1)
8 (b) and (c).

9 **SECTION 160.** 166.20 (1) (d) of the statutes is renumbered 323.60 (1) (d) and
10 amended to read:

11 323.60 (1) (d) “Facility plan” means a plan for response to the release of
12 hazardous substances from a specific facility, prepared as a component of a local
13 emergency response plan under sub. (5) (a) ~~1.~~ and under 42 USC 11003.

14 **SECTION 161.** 166.20 (1) (e) and (f) of the statutes are renumbered 323.60 (1)
15 (e) and (f).

16 **SECTION 162.** 166.20 (1) (fm) of the statutes is repealed.

17 **SECTION 163.** 166.20 (1) (g) of the statutes is renumbered 323.60 (1) (g).

18 **SECTION 164.** 166.20 (1) (ge) of the statutes is renumbered 323.02 (11), and
19 323.02 (11) (d), as renumbered, is and amended to read:

20 323.02 (11) (d) Response operations must be conducted in confined, poorly
21 ventilated areas and the absence of conditions under ~~subds. 1. to 3.~~ pars. (a) to (c) has
22 not been established.

23 **SECTION 165.** 166.20 (1) (gi) of the statutes is renumbered 323.02 (12).

24 **SECTION 166.** 166.20 (1) (gk) of the statutes is renumbered 323.02 (13) and
25 amended to read:

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1 323.02 (13) “Local emergency response team” means a team that the local
2 emergency planning committee identifies under s. ~~166.21~~ 323.61 (2m) (e).

3 **SECTION 167.** 166.20 (1) (gm) of the statutes is repealed.

4 **SECTION 168.** 166.20 (1) (h) and (i) of the statutes are renumbered 323.60 (1)
5 (h) and (i).

6 **SECTION 169.** 166.20 (1) (im) of the statutes is repealed.

7 **SECTION 170.** 166.20 (1) (j) of the statutes is renumbered 323.60 (1) (j), and
8 323.60 (1) (j) (intro.), 1. and 2., as renumbered, are amended to read:

9 323.60 (1) (j) (intro.) “Threshold quantity” means a designated quantity of any
10 of the following:

11 1. A hazardous chemical which, if used by or present at a facility, makes the
12 facility subject to the requirements of sub. (5) ~~(a) 3.; or (c).~~

13 2. A toxic chemical which, if used by or present at a facility, makes the facility
14 subject to the requirements of sub. (5) ~~(a) 4. (d).~~

15 **SECTION 171.** 166.20 (1) (k) of the statutes is renumbered 323.60 (1) (k).

16 **SECTION 172.** 166.20 (2) (intro.) of the statutes is renumbered 323.60 (2) (intro.)
17 and amended to read:

18 323.60 (2) DUTIES OF THE DIVISION. (intro.) The division shall do all of the
19 following:

20 **SECTION 173.** 166.20 (2) (a) of the statutes is renumbered 323.60 (2) (a) and
21 amended to read:

22 323.60 (2) (a) ~~Carry out all requirements of a~~ Serve as the state emergency
23 response commission under the federal act.

24 **SECTION 174.** 166.20 (2) (b) of the statutes is renumbered 323.60 (2) (b).

SENATE BILL 226**SECTION 175**

1 **SECTION 175.** 166.20 (2) (bg) of the statutes is renumbered 323.60 (2) (bg) and
2 amended to read:

3 323.60 (2) (bg) Promulgate rules establishing an amount not to exceed \$6,000
4 that may be an eligible cost for computers in an emergency planning grant under s.
5 ~~166.21~~ 323.61 (2) (br).

6 **SECTION 176.** 166.20 (2) (bm) of the statutes is renumbered 323.70 (7) (a) and
7 amended to read:

8 323.70 (7) (a) ~~Promulgate~~ The division shall promulgate rules establishing
9 standards to determine all of the following:

10 1. If a regional or local emergency response team has made a good faith effort
11 to identify a person responsible for the emergency involving a release or potential
12 release of a hazardous substance under s. ~~166.215 (3) or 166.22 sub. (4) or s. 323.71~~
13 (4).

14 2. If a person responsible for the emergency involving a release or potential
15 release of a hazardous substance under s. ~~166.215 (3) or 166.22 sub. (4) or s. 323.71~~
16 (4) is financially able or has the money or resources necessary to reimburse a regional
17 or local emergency response team for the expenses incurred by the regional or local
18 emergency response team in responding to the emergency.

19 **SECTION 177.** 166.20 (2) (bs) 1. of the statutes is renumbered 323.70 (7) (b) and
20 amended to read:

21 323.70 (7) (b) ~~Promulgate~~ The division shall promulgate rules that establish
22 the procedures that a regional emergency response team shall follow to determine
23 if an emergency that requires the team's response exists as the result of a level A
24 release or a potential level A release.

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1 **SECTION 178.** 166.20 (2) (bs) 2. of the statutes is renumbered 323.70 (7) (c) and
2 amended to read:

3 323.70 (7) (c) ~~Promulgate~~ The division shall promulgate rules that establish
4 the procedures that a local emergency response team shall follow to determine if an
5 emergency that requires the team's response exists as the result of a release or
6 potential release of a hazardous substance, as defined in s. 299.01 (6).

7 **SECTION 179.** 166.20 (2) (c) of the statutes is renumbered 323.60 (2) (c).

8 **SECTION 180.** 166.20 (2) (d) of the statutes is renumbered 323.60 (2) (d) and
9 amended to read:

10 323.60 (2) (d) Administer the grant program under s. ~~166.21~~ 323.61.

11 **SECTION 181.** 166.20 (2) (e) of the statutes is renumbered 323.60 (2) (e).

12 **SECTION 182.** 166.20 (2) (f) of the statutes is renumbered 323.60 (2) (f).

13 **SECTION 183.** 166.20 (3) (intro.) of the statutes is renumbered 323.60 (3) (intro.)
14 and amended to read:

15 323.60 (3) DUTIES OF COMMITTEES. (intro.) A committee shall do all of the
16 following:

17 **SECTION 184.** 166.20 (3) (a) of the statutes is renumbered 323.60 (3) (a).

18 **SECTION 185.** 166.20 (3) (b) of the statutes is renumbered 323.60 (3) (b) and
19 amended to read:

20 323.60 (3) (b) Upon receipt by the committee or the committee's designated
21 community emergency coordinator of a notification under sub. (5) ~~(a) 2.~~ (b) of the
22 release of a hazardous substance, take all actions necessary to ensure the
23 implementation of the local emergency response plan.

24 **SECTION 186.** 166.20 (3) (c) of the statutes is renumbered 323.60 (3) (c) and
25 amended to read:

SENATE BILL 226**SECTION 186**

1 323.60 (3) (c) Consult and coordinate with the county board, the county and
2 local heads of emergency management services designated under s. 166.03 (4) (a) or
3 ~~(b) 323.14 (1) (a) 2. or (b) 2.~~ and the county emergency management committee
4 designated under s. ~~166.03 (4) (e)~~ 323.14 (1) (a) 3. in the execution of the local
5 emergency planning committee's duties under this section.

6 **SECTION 187.** 166.20 (4) of the statutes is renumbered 323.60 (4), and 323.60
7 (4) (a) and (c), as renumbered, are amended to read:

8 323.60 (4) (a) Upon receipt of a notification under sub. (5) ~~(a) 2.~~ (b) or s. 292.11
9 (2) of the release of a hazardous substance, provide all information contained in the
10 notification to the division.

11 (c) Use the information contained in toxic chemical release forms submitted
12 under sub. (5) ~~(a) 4.~~ (d) in the planning and implementation of programs related to
13 the regulation, monitoring, abatement and mitigation of environmental pollution.

14 **SECTION 188.** 166.20 (4m) of the statutes is renumbered 323.60 (4m) and
15 amended to read:

16 323.60 (4m) COOPERATION. A state agency, federally recognized American
17 Indian tribe or band, or local governmental unit may assist the division or a
18 committee in the performance of its duties under this section and may enter into an
19 agreement with the division or a committee.

20 **SECTION 189.** 166.20 (5) (title) of the statutes is renumbered 323.60 (5) (title).

21 **SECTION 190.** 166.20 (5) (a) 1., 2. and 3. of the statutes are renumbered 323.60
22 (5) (a), (b) and (c).

23 **SECTION 191.** 166.20 (5) (a) 4., 5. and 6. of the statutes are renumbered 323.60
24 (5) (d), (e) and (f), and 323.60 (5) (d) 3., (e) and (f), as renumbered, are amended to
25 read:

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1 323.60 (5) (d) 3. All facilities with 10 or more employees in major group
2 classifications 10 to 13 in the standard industrial classification manual, 1987
3 edition, published by the U.S. office of management and budget, at which a toxic
4 chemical is used at or above an applicable threshold quantity, except that compliance
5 with the toxic chemical release form requirements under this ~~subd. 4. c. subdivision~~
6 is not required for the placement of a toxic chemical in a storage or disposal site or
7 facility that is located at a facility with a permit under ch. 293 if the toxic chemical
8 consists of or is contained in merchantable by-products as defined in s. 293.01 (7),
9 minerals as defined in s. 293.01 (8) or refuse as defined in s. 293.01 (25).

10 (e) The reporting procedures for trade secrets under 42 USC 11042 shall apply
11 to all facilities in this state subject to the requirements under ~~subd. 1., 3. or 4. par.~~
12 (a), (c), or (d). For the purposes of applying this ~~subdivision~~ paragraph to public
13 agencies and private agencies, the division shall have the powers and duties granted
14 to the administrator of the U.S. environmental protection agency under 42 USC
15 11042.

16 (f) All facilities in this state subject to the requirements under ~~subd. 3. or 4. par.~~
17 (c) or (d) shall comply with the procedures for providing information under 42 USC
18 11043.

19 **SECTION 192.** 166.20 (5) (b) of the statutes is repealed.

20 **SECTION 193.** 166.20 (5m) and (6) of the statutes are renumbered 323.60 (5m)
21 and (6).

22 **SECTION 194.** 166.20 (7) (title) of the statutes is renumbered 323.60 (7) (title).

23 **SECTION 195.** 166.20 (7) (a) (intro.) of the statutes is renumbered 323.60 (7) (a)
24 (intro.) and amended to read:

SENATE BILL 226**SECTION 195**

1 323.60 (7) (a) (intro.) The division shall establish, by rule, the following fees at
2 levels designed to fund the division's administrative expenses and the grants under
3 s. ~~166.21~~ 323.61:

4 **SECTION 196.** 166.20 (7) (a) 1. of the statutes is renumbered 323.60 (7) (a) 1. and
5 amended to read:

6 323.60 (7) (a) 1. An emergency planning notification fee to be paid when a
7 facility makes the emergency planning notification required under sub. (5) (a) ~~1~~.

8 **SECTION 197.** 166.20 (7) (a) 2. of the statutes is renumbered 323.60 (7) (a) 2. and
9 amended to read:

10 323.60 (7) (a) 2. An inventory form fee to be paid annually when a facility
11 submits the emergency and hazardous chemical inventory forms required under sub.
12 (5) (a) ~~3~~. (c).

13 **SECTION 198.** 166.20 (7) (b), (d), (dm) and (e) of the statutes are renumbered
14 323.60 (7) (b), (d), (dm) and (e), and 323.60 (7) (b) and (dm), as renumbered, are
15 amended to read:

16 323.60 (7) (b) The operator of a facility subject to the requirements of sub. (5)
17 ~~(a) 1. or 3.~~ (a) or (c) shall pay the fees under par. (a). The division may establish, by
18 rule, a surcharge to be paid by the operator of a facility if the operator fails to pay the
19 fees under par. (a) in a timely manner. The surcharge under this paragraph shall not
20 exceed 20% of the original fee.

21 (dm) The operator of a ~~petroleum marketing~~ facility at which petroleum
22 products are received by tank truck, tank trailer, or railroad tank car and stored for
23 resale is exempt from the fees under par. (a) 2. with respect to gasoline and diesel fuel
24 present at ~~the petroleum marketing~~ that facility.

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1 **SECTION 199.** 166.20 (7m) and (8) of the statutes are renumbered 323.60 (7m)
2 and (8), and 323.60 (8) (a), as renumbered, is amended to read:

3 323.60 **(8)** (a) The department of justice, at its own discretion or at the request
4 of the division or the committee or district attorney for the county in which the
5 violation is alleged to have occurred, shall enforce subs. (2) to (7) and rules
6 promulgated under subs. (2) to (7). In any action commenced under this paragraph,
7 the department of justice may request the assistance of the district attorney for the
8 county in which the violation is alleged to have occurred and the district attorney
9 shall provide the requested assistance, except that, for a violation that is alleged to
10 have occurred within the boundaries of a federally recognized Indian reservation or
11 on land that is held in trust by the federal government for the benefit of an American
12 Indian tribe or band, only the department of justice may enforce subs. (2) to (7) and
13 rules promulgated under subs. (2) to (7).

14 **SECTION 200.** 166.20 (9) (title) of the statutes is renumbered 323.60 (9) (title).

15 **SECTION 201.** 166.20 (9) (a) of the statutes is renumbered 323.60 (9) (a), and
16 323.60 (9) (a) 1. a., b. and c., 2. (intro.), a., b. and c. and 3., as renumbered, are
17 amended to read:

18 323.60 **(9)** (a) 1. a. Any person for failure to submit a follow-up emergency
19 notice under 42 USC 11004 (c), as applied under sub. (5) ~~(a)~~ 2. (b).

20 b. Any person for violation of sub. (5) ~~(a)~~ 3. or 4. (c) or (d).

21 c. The division for failure to render a decision in response to a petition under
22 42 USC 11042 (d), as applied under sub. (5) ~~(a)~~ 5. (e), within 9 months after receipt
23 of the petition.

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1 2. (intro.) The division or any county, ~~city, village or town~~ local unit of
2 government may commence a civil action against any person for failure to do any of
3 the following:

4 a. Provide notification to the division under 42 USC 11002 (c), as applied under
5 sub. (5) (a) 1.

6 b. Submit the information required under 42 USC 11021 (a) or 11022 (a), as
7 applied by sub. (5) ~~(a) 3.~~ (c).

8 c. Make available information requested under 42 USC 11021 (c), as applied
9 under sub. (5) ~~(a) 3.~~ (c).

10 3. The division or any committee may commence an action against any person
11 for failure to provide the information required under 42 USC 11003 (d), as applied
12 under sub. (5) (a) 1, or any information required under 42 USC 11022 (e) (1), as
13 applied under sub. (5) ~~(a) 3.~~ (c).

14 **SECTION 202.** 166.20 (9) (b) of the statutes is renumbered 323.60 (9) (b).

15 **SECTION 203.** 166.20 (9) (c) 1. of the statutes is renumbered 323.60 (9) (c).

16 **SECTION 204.** 166.20 (9) (e) of the statutes is repealed.

17 **SECTION 205.** 166.20 (10) of the statutes is renumbered 323.60 (10).

18 **SECTION 206.** 166.20 (11) of the statutes is renumbered 323.60 (11), and 323.60
19 (11) (a), (b) (intro.), (c) and (d), as renumbered, are amended to read:

20 323.60 (11) (a) Any person who violates sub. (5) (a) ~~1., 2. or 4.,~~ (b), or (d), or the
21 emergency and hazardous chemical inventory form requirements of 42 USC 11022,
22 as applied under sub. (5) ~~(a) 3.~~ (c), or any rule promulgated under sub. (5) (a) ~~1., 2.~~
23 ~~or 4.,~~ (b), or (d), or concerning emergency and hazardous chemical inventory form
24 requirements shall forfeit not less than \$100 nor more than \$25,000. Total
25 forfeitures for the failure of a facility to report multiple releases of hazardous

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1 substances covered under 42 USC 11004, as applied under sub. (5) (a), shall not
2 exceed \$75,000 per day of offense.

3 (b) (intro.) Any person who knowingly and willfully fails to report the release
4 of a hazardous substance covered under 42 USC 11004 as required under sub. (5) (a)
5 ~~2. (b)~~ or any rule promulgated under sub. (5) (a) ~~2. (b)~~ is subject to the following
6 penalties:

7 (c) Any person who violates sub. (5) (a) ~~5. or 6. (e) or (f)~~ or the material safety
8 data sheet requirements of 42 USC 11021, as applied under sub. (5) (a) ~~3. (c)~~, or any
9 rule promulgated under sub. (5) (a) ~~5. or 6. (e) or (f)~~ or concerning material safety data
10 sheet requirements shall forfeit not less than \$50 nor more than \$10,000.

11 (d) Any person who knowingly and willfully releases a trade secret entitled to
12 protection under 42 USC 11042, as applied under sub. (5) (a) ~~5. (e)~~, shall be fined not
13 less than \$100 nor more than \$20,000 or imprisoned for not more than one year in
14 the county jail or both.

15 **SECTION 207.** 166.21 (title) of the statutes is renumbered 323.61 (title).

16 **SECTION 208.** 166.21 (1) (title) of the statutes is renumbered 323.61 (1) (title).

17 **SECTION 209.** 166.21 (1) (a) of the statutes is renumbered 323.61 (1) (a) and
18 amended to read:

19 323.61 (1) (a) There is created an emergency planning grant program for the
20 purpose of assisting committees to comply with the requirements of s. ~~166.20~~ 323.60
21 and the federal act.

22 **SECTION 210.** 166.21 (1) (b) and (2) of the statutes are renumbered 323.61 (1)
23 (b) and (2), and 323.61 (2) (d), as renumbered, is amended to read:

24 323.61 (2) (d) Any other activity of the committee required under s. ~~166.20~~
25 323.60 or the federal act.

SENATE BILL 226**SECTION 211**

1 **SECTION 211.** 166.21 (2m) (intro.) and (a) to (e) of the statutes are renumbered
2 323.61 (2m) (intro.) and (a) to (e).

3 **SECTION 212.** 166.21 (2m) (f) of the statutes is renumbered 323.61 (2m) (f) and
4 amended to read:

5 323.61 **(2m)** (f) Procedures for local emergency response team actions that are
6 consistent with local emergency response plans developed under s. ~~166.20~~ 323.60 (3)
7 and the state contingency plan established under s. 292.11 (5).

8 **SECTION 213.** 166.21 (3), (4) and (5) of the statutes are renumbered 323.61 (3),
9 (4) and (5), and 323.61 (3) (c), as renumbered, is amended to read:

10 323.61 **(3)** (c) Notwithstanding sub. (2), the division shall deny that portion of
11 a grant calculated under par. (a) 2. if the division determines that the committee has
12 failed to meet grant obligations, including the development, review, exercise or
13 implementation of local emergency response plans as required under s. ~~166.20~~
14 323.60 or the federal act.

15 **SECTION 214.** 166.215 (title) of the statutes is renumbered 323.70 (title).

16 **SECTION 215.** 166.215 (1) of the statutes is renumbered 323.70 (2) and amended
17 to read:

18 323.70 **(2)** ~~Beginning July 1, 2001, the~~ The division shall contract with no more
19 than 9 regional emergency response teams, one of which shall be located in La Crosse
20 County. Each regional emergency response team shall assist in the emergency
21 response to level A releases in a region of this state designated by the division. The
22 division shall contract with at least one regional emergency response team in each
23 area designated under s. ~~166.03 (2) (b) 1.~~ 323.13 (2) (a). The division may only
24 contract with a local agency, ~~as defined in s. 166.22 (1) (e),~~ under this subsection. A
25 member of a regional emergency response team shall meet the highest standards for

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1 a hazardous materials responder in 29 CFR 1910.120 (q) (6) (iv) and National Fire
2 Protection Association standards NFPA 471 and 472. Regional emergency response
3 teams shall have at least one member that is trained in each of the appropriate
4 specialty areas under National Fire Protection Association standard NFPA 472.
5 Payments to regional emergency response teams under this subsection shall be made
6 from the appropriation account under s. 20.465 (3) (dd).

7 **SECTION 216.** 166.215 (2) of the statutes is renumbered 323.70 (3) and amended
8 to read:

9 323.70 (3) The division shall reimburse a regional emergency response team
10 for costs incurred by the team in responding to an emergency involving a level A
11 release, or a potential level A release, if the team followed the procedures in the rules
12 promulgated under ~~s. 166.20 (2) (bs) 1.~~ sub. (7) (b) to determine if an emergency
13 requiring a response existed. Reimbursement under this subsection is limited to
14 amounts collected under sub. ~~(3) (4)~~ and the amounts appropriated under s. 20.465
15 (3) (dr). Reimbursement is available under s. 20.465 (3) (dr) only if the regional
16 emergency response team has made a good faith effort to identify the person
17 responsible under sub. ~~(3) (4)~~ and that person cannot be identified, or, if that person
18 is identified, the team has received reimbursement from that person to the extent
19 that the person is financially able or has determined that the person does not have
20 adequate money or other resources to reimburse the regional emergency response
21 team.

22 **SECTION 217.** 166.215 (3) (intro.) of the statutes is renumbered 323.70 (4)
23 (intro.) and amended to read:

24 323.70 (4) (intro.) A person shall reimburse the division for costs incurred by
25 a regional emergency response team in responding to an emergency involving a level

SENATE BILL 226**SECTION 217**

1 A release or a potential level A release if the team followed the procedures
2 established under s. ~~166.20 (2) (bs)~~ 1. sub. (7) (b) to determine if an emergency
3 requiring the team's response existed and if any of the following conditions applies:

4 **SECTION 218.** 166.215 (3) (a) of the statutes is renumbered 323.70 (4) (a).

5 **SECTION 219.** 166.215 (3) (b) of the statutes is renumbered 323.70 (4) (b).

6 **SECTION 220.** 166.215 (4) of the statutes is renumbered 323.70 (5) and amended
7 to read:

8 323.70 (5) A member of a regional emergency response team who is acting
9 under a contract under sub. ~~(1)~~ (2) is considered an employee of the state for purposes
10 of worker's compensation benefits.

11 **SECTION 221.** 166.215 (5) of the statutes is renumbered 323.70 (6) and amended
12 to read:

13 323.70 (6) The division shall notify the joint committee on finance in writing,
14 before entering into a new contractual agreement under sub. ~~(1)~~ (2) or renewing or
15 extending a contractual agreement under sub. ~~(1)~~ (2), of the specific funding
16 commitment involved in that proposed new, renewed or extended contract. The
17 division shall include in that notification information regarding any anticipated
18 contractual provisions that involve state fiscal commitments for each fiscal year in
19 the proposed new, renewed or extended contract. The division may enter into a new
20 contractual agreement or renew or extend a contractual agreement, as proposed in
21 the notification to the joint committee on finance, if within 14 working days after
22 notification the committee does not schedule a meeting to review the division's
23 proposed action. If, within 14 working days after notification to the joint committee
24 on finance, the committee notifies the division that the committee has scheduled a
25 meeting to review the division's proposed action, the division may enter into the

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1 proposed new contact or renew or extend the contract as proposed only if the
2 committee approves that action.

3 **SECTION 222.** 166.22 (title) of the statutes is renumbered 323.71 (title).

4 **SECTION 223.** 166.22 (1) (intro.) of the statutes is renumbered 323.70 (1) (intro.)
5 and amended to read:

6 323.70 (1) (intro.) In this section ~~section~~ subchapter:

7 **SECTION 224.** 166.22 (1) (b), (c) and (d) of the statutes are renumbered 323.70
8 (1) (a), (b) and (c), and 323.70 (1) (c), as renumbered, is amended to read:

9 323.70 (1) (c) "Local emergency response team" means a team that the
10 committee identifies under s. ~~166.21~~ 323.61 (2m) (e).

11 **SECTION 225.** 166.22 (2) of the statutes is renumbered 323.71 (1).

12 **SECTION 226.** 166.22 (3) of the statutes is renumbered 323.71 (2) and amended
13 to read:

14 323.71 (2) If action required under sub. ~~(2)~~ (1) is not being adequately taken
15 or the identity of the person responsible for an emergency involving a release or
16 potential release of a hazardous substance is unknown and the emergency involving
17 a release or potential release threatens public health or safety or damage to property,
18 a local agency may take any emergency action that is consistent with the contingency
19 plan for the undertaking of emergency actions in response to the release or potential
20 release of hazardous substances established by the department of natural resources
21 under s. 292.11 (5) and that it considers appropriate under the circumstances.

22 **SECTION 227.** 166.22 (3m) of the statutes is renumbered 323.71 (3) and
23 amended to read:

24 323.71 (3) The division shall reimburse a local emergency response team for
25 costs incurred by the team in responding to an emergency involving a hazardous

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1 substance release, or potential release, if the team followed the procedures in the
2 rules promulgated under s. ~~166.20 (2) (bs) 2. 323.70 (7) (c)~~ to determine if an
3 emergency requiring the team's response existed. Reimbursement under this
4 subsection is limited to the amount appropriated under s. 20.465 (3) (dr).
5 Reimbursement is available under s. 20.465 (3) (dr) only if the local emergency
6 response team has made a good faith effort to identify the person responsible under
7 sub. (4) and that person cannot be identified, or, if that person is identified, the team
8 has received reimbursement from that person to the extent that the person is
9 financially able or has determined that the person does not have adequate money or
10 other resources to reimburse the local emergency response team.

11 **SECTION 228.** 166.22 (4) (a) of the statutes is renumbered 323.71 (4) (a).

12 **SECTION 229.** 166.22 (4) (b) of the statutes is renumbered 323.71 (4) (b) and
13 amended to read:

14 323.71 (4) (b) A local emergency response team may receive reimbursement
15 under par. (a) only if the team followed the procedures established under s. ~~166.20~~
16 ~~(2) (bs) 2. 323.70 (7) (c)~~ to determine if an emergency requiring the team's response
17 existed.

18 **SECTION 230.** 166.22 (5) of the statutes is renumbered 323.71 (5).

19 **SECTION 231.** 166.22 (6) of the statutes is renumbered 323.71 (6).

20 **SECTION 232.** 166.23 (title) of the statutes is repealed.

21 **SECTION 233.** 166.23 (1) of the statutes is renumbered 323.11 and amended to
22 read:

23 **323.11 Declaration by local government.** ~~Notwithstanding any other~~
24 ~~provision of law to the contrary, the~~ The governing body of any county, city, village,
25 ~~or town is empowered to~~ local unit of government may declare, by ordinance or

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1 resolution, an emergency existing within the ~~county, city, village, or town~~ local unit
2 of government whenever conditions arise by reason of war, conflagration, flood,
3 heavy snow storm, blizzard, catastrophe, disaster, a riot or civil commotion, acts of
4 God, and including conditions, without limitation because of enumeration, which
5 ~~impair a disaster, or an imminent threat of a disaster, that impairs~~ transportation,
6 food or fuel supplies, medical care, fire, health or police protection, or other vital
7 facilities critical systems of the ~~county, city, village, or town~~ local unit of government.

8 The period of the emergency shall be limited by the ordinance or resolution to the
9 time during which the emergency conditions exist or are likely to exist.

10 **SECTION 234.** 166.23 (2) of the statutes is renumbered 323.14 (4) (a) and
11 amended to read:

12 323.14 (4) (a) The emergency power of the governing body conferred under sub-
13 (1) ~~s. 323.11~~ includes the general authority to order, by ordinance or resolution,
14 whatever is necessary and expedient for the health, safety, protection, and welfare
15 and ~~good order of the county, city, village, or town~~ persons and property within the
16 local unit of government in the emergency and includes ~~without limitation because~~
17 ~~of enumeration~~ the power to bar, restrict, or remove all unnecessary traffic, both
18 vehicular and pedestrian, from the local highways, notwithstanding any provision
19 of chs. 341 to 349 or any other provisions of law. ~~The governing body of the county,~~
20 ~~city, village, or town may provide penalties for violation of any emergency ordinance~~
21 ~~or resolution not to exceed a \$100 forfeiture or, in default of payment of the forfeiture,~~
22 ~~6 months' imprisonment for each separate offense.~~

23 **SECTION 235.** 166.23 (2m) of the statutes is renumbered 323.14 (3) (a) and
24 amended to read:

SENATE BILL 226**SECTION 235**

1 323.14 (3) (a) If the governing body of a ~~county, city, village, or town~~ local unit
2 of government declares an emergency under sub. (1) s. 323.11 and intends to make
3 use of ~~behavioral health providers, health care providers, pupil services providers,~~
4 ~~or substance abuse prevention providers~~ volunteer health care practitioners, as
5 specified in s. ~~250.042 (4)~~ 257.03, the governing body or its agent shall, as soon as
6 possible, notify the department of health services of this intent.

7 **SECTION 236.** 166.23 (3) of the statutes is renumbered 323.14 (4) (b) and
8 amended to read:

9 323.14 (4) (b) If, because of the emergency conditions, the governing body of the
10 ~~county, city, village, or town~~ local unit of government is unable to meet with
11 ~~promptness~~ promptly, the chief executive officer or acting chief executive officer of
12 any ~~county, city, village, or town~~ local unit of government shall exercise by
13 proclamation all of the powers conferred upon the governing body under ~~sub. (1) or~~
14 ~~(2) which within the discretion of the officer~~ par. (a) or s. 323.11 that appear necessary
15 and expedient for the purposes herein set forth. The proclamation shall be subject
16 to ratification, alteration, modification, or repeal by the governing body as soon as
17 that body can meet, but the subsequent action taken by the governing body shall not
18 affect the prior validity of the proclamation.

19 **SECTION 237.** 166.25 of the statutes is renumbered 323.24 and amended to
20 read:

21 **323.24 Prohibition against restricting firearms or ammunition during**
22 **emergency.** A person who is granted emergency powers under s. ~~166.03 or 166.23~~
23 this subchapter may not use those powers to restrict the lawful possession, transfer,
24 sale, transport, storage, display, or use of firearms or ammunition during an
25 emergency.

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1 **SECTION 238.** 166.30 of the statutes is renumbered 323.80.

2 **SECTION 239.** 250.01 (intro.) of the statutes is amended to read:

3 **250.01 Definitions.** (intro.) In chs. 250 to ~~256~~ 257, unless the context requires
4 otherwise:

5 **SECTION 240.** 250.01 (6g) of the statutes is amended to read:

6 250.01 **(6g)** "Public health authority" means the department, if the governor
7 declares under s. ~~166.03 (1) (b) 1.~~ 323.10 a state of emergency related to public health
8 and designates the department as the lead state agency to respond to that
9 emergency.

10 **SECTION 241.** 250.01 (6r) of the statutes is amended to read:

11 250.01 **(6r)** "Public health emergency" has the meaning given in s. ~~166.02 (7)~~
12 323.02 (16).

13 **SECTION 242.** 250.03 (3) (a) (intro.) of the statutes is amended to read:

14 250.03 **(3)** (a) (intro.) No later than 90 days after a state of emergency relating
15 to public health is declared and the department is designated under s. ~~166.03 (1) (b)~~
16 ~~1.~~ 323.10 as the lead state agency to respond to that emergency and no later than 90
17 days after the termination of this state of emergency relating to public health, the
18 department shall submit to the legislature under s. 13.172 (2) and to the governor
19 a report on all of the following:

20 **SECTION 243.** 250.042 (1) of the statutes is amended to read:

21 250.042 **(1)** If the governor declares a state of emergency related to public
22 health under s. ~~166.03 (1) (b) 1.~~ 323.10 and designates the department as the lead
23 state agency to respond to that emergency, the department shall act as the public
24 health authority during the period of the state of emergency. The department shall
25 ensure that the emergency operations during the state of emergency are conducted

SENATE BILL 226**SECTION 243**

1 using the incident command system required under s. ~~166.03 (2) (a) 1.~~ 323.13 (1) (b).
2 During the period of the state of emergency, the secretary may designate a local
3 health department as an agent of the department and confer upon the local health
4 department, acting under that agency, the powers and duties of the public health
5 authority.

6 **SECTION 244.** 250.042 (4) (a) (intro.) of the statutes is repealed.

7 **SECTION 245.** 250.042 (4) (a) 1. of the statutes is renumbered 257.01 (1) (intro.)
8 and amended to read:

9 257.01 (1) (intro.) “Behavioral health provider” means ~~an~~ any of the following:

10 (a) An individual who ~~at any time within 10 years before a state of emergency~~
11 ~~is declared under s. 166.03 (1) (b) 1. or 166.23,~~ has, under chapter ch. 455, been is
12 licensed as a psychologist or has, under ch. 457, been is certified as a social worker
13 or licensed as a clinical social worker, a marriage and family therapist, or a
14 professional counselor.

15 **SECTION 246.** 250.042 (4) (a) 2. of the statutes is renumbered 257.01 (4).

16 **SECTION 247.** 250.042 (4) (a) 3. of the statutes is renumbered 257.01 (5) (intro.)
17 and amended to read:

18 257.01 (5) (intro.) “Health care provider” means ~~an~~ any of the following:

19 (a) An individual who, ~~at any time within 10 years before a state of emergency~~
20 ~~is declared under s. 166.03 (1) (b) 1. or 166.23,~~ has met requirements for a nurse aide
21 under s. ~~146.40 (2) (a), (c), (e), (em), or (g),~~ has been is licensed as a physician, a
22 physician assistant, or a podiatrist under ch. 448, licensed as a registered nurse,
23 licensed practical nurse, or nurse-midwife under ch. 441, licensed as a dentist under
24 ch. 447, licensed as a pharmacist under ch. 450, ~~licensed as a veterinarian under ch.~~
25 ~~453,~~ or has been certified as a respiratory care practitioner under ch. 448.

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1 **SECTION 248.** 250.042 (4) (a) 3m. of the statutes is renumbered 257.01 (6).

2 **SECTION 249.** 250.042 (4) (a) 4. of the statutes is renumbered 257.01 (9) (intro.)

3 and amended to read:

4 257.01 (9) (intro.) “Pupil services provider” means an any of the following:

5 (a) An individual who, at any time within 10 years before a state of emergency
6 ~~is declared under s. 166.03 (1) (b) 1. or 166.23, has been~~ is licensed as a school
7 counselor, school psychologist, or school social worker under rules promulgated by
8 the department of public instruction.

9 **SECTION 250.** 250.042 (4) (a) 5. of the statutes is renumbered 257.01 (11) (intro.)
10 and amended to read:

11 257.01 (11) (intro.) “Substance abuse prevention provider” means an any of the
12 following:

13 (a) An individual who, at any time within 10 years before a state of emergency
14 ~~is declared under s. 166.03 (1) (b) 1. or 166.23, has been~~ is certified as a counselor,
15 supervisor, or specialist described under s. HFS 75.02 (11) and (84), Wis. Adm. Code,
16 in effect on January 20, 2006, or ~~has been~~ certified as a substance abuse counselor,
17 clinical supervisor, or prevention specialist under s. 440.88.

18 **SECTION 251.** 250.042 (4) (b) of the statutes is renumbered 257.03 (1) (intro.)
19 and amended to read:

20 257.03 (1) (intro.) ~~A behavioral health provider, health care provider, pupil~~
21 ~~services provider, or substance abuse prevention provider~~ Except as provided in sub.
22 (3), a practitioner who, during a state of emergency declared under s. 166.03 (1) (b)
23 1. or 166.23 and in a geographic area in which the state of emergency applies,
24 ~~provides behavioral health services, health care services, pupil services, or~~
25 ~~substance abuse prevention services for which the behavioral health provider, health~~

SENATE BILL 226**SECTION 251**

1 ~~care provider, pupil services provider, or substance abuse prevention provider~~
2 individual is or has been licensed or, certified, registered, or, as in the case of a nurse
3 aide, has met requirements under s. 146.40 qualified, is, for any claim arising from
4 the provision of these the services, a state agent of the department for purposes of
5 under ss. 165.25 (6), 893.82, and 895.46 and, except as provided in sub. (2), is
6 considered an employee of the state for purposes of worker's compensation benefits.
7 under ch. 102 if all of the following apply:

8 (a) ~~The behavioral health services, health care services, pupil services, or~~
9 ~~substance abuse prevention services shall be~~ are provided on behalf of a health care
10 facility or mass clinic on a voluntary, unpaid basis, except that the behavioral health
11 provider, health care provider, pupil services provider, or substance abuse
12 prevention provider may accept reimbursement for travel, lodging, and meals. The
13 health care facility on whose behalf the services are provided is, for the provision of
14 the services, a state agent of the department for purposes of ss. 165.25 (6), 893.82,
15 and 895.46, or at the request of the department or a local health department.

16 **SECTION 252.** 250.042 (4) (c) of the statutes is repealed.

17 **SECTION 253.** 252.06 (10) (c) of the statutes is amended to read:

18 252.06 (10) (c) All expenses incurred by a local health department, or by an
19 entity designated as a local health department by a federally recognized American
20 Indian tribe or band in this state, in quarantining a person outside his or her home
21 during a state of emergency related to public health declared by the governor under
22 s. 166.03 (1) (b) 1. 323.10 and not reimbursed from federal funds shall be paid for
23 under either of the following, as appropriate:

24 1. If the governor designates the department as the lead state agency under s.
25 ~~166.03 (1) (b) 1.~~ 323.10, from the appropriation under s. 20.435 (1) (c).

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1 2. If the governor does not designate the department as the lead state agency
2 under s. ~~166.03 (1) (b) 1.~~ 323.10, from the appropriation under s. 20.465 (3) (e).

3 **SECTION 254.** 254.34 (1) (am) of the statutes is amended to read:

4 254.34 (1) (am) A rule identical to a rule specified under par. (a) may be
5 promulgated by a state agency other than the department and an ordinance identical
6 to a rule specified under par. (a) may be enacted by a local governmental unit, but
7 no rule may be promulgated or ordinance may be enacted that differs from a rule
8 under par. (a) and relates to the same subject area except as provided under ss.
9 ~~166.03 (2) (b) 6.,~~ 293.15 (8) ~~and,~~ 293.25, ~~and~~ 323.13 (2) (f).

10 **SECTION 255.** 256.08 (4) (i) of the statutes is amended to read:

11 256.08 (4) (i) Provide advice to the adjutant general of the department of
12 military affairs on the emergency medical aspects of the state plan of emergency
13 management under s. ~~166.03 (2) (a) 1.~~ 323.13 (1) (b) and coordinate emergency
14 activities with the department of military affairs.

15 **SECTION 256.** 256.15 (2) of the statutes is amended to read:

16 256.15 (2) LICENSE OR CERTIFICATE REQUIRED. ~~No~~ Except when acting under s.
17 257.03, no person may act as or advertise for the provision of services as an
18 ambulance service provider unless the person holds an ambulance service provider
19 license issued under this section. ~~No~~ Except when acting under s. 257.03, no
20 individual may act as or advertise for the provision of services as an emergency
21 medical technician unless he or she holds an emergency medical technician license
22 or training permit issued under sub. (5). ~~No~~ Except when acting under s. 257.03, no
23 individual may act as or advertise for the provision of services as a first responder
24 unless he or she holds a first responder certificate issued under sub. (8).

25 **SECTION 257.** Chapter 257 (title) of the statutes is created to read:

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CHAPTER 257

EMERGENCY VOLUNTEER HEALTH CARE

PRACTITIONERS

SECTION 258. 257.01 (intro.) of the statutes is created to read:

257.01 Definitions. (intro.) In this chapter:

SECTION 259. 257.01 (1) (b) and (c) of the statutes are created to read:

257.01 (1) (b) An individual who was at any time within the previous 10 years, but is not currently, licensed as a psychologist under ch. 455 or certified as a social worker or licensed as a clinical social worker, a marriage and family therapist, or a professional counselor under ch. 457, if the individual's license or certification was never revoked, limited, suspended, or denied renewal.

(c) An individual who holds a valid, unexpired license, certification, or registration issued by another state or territory that authorizes or qualifies the individual to perform acts that are substantially the same as those acts that an individual under par. (a) is licensed or certified to perform.

SECTION 260. 257.01 (2) of the statutes is created to read:

257.01 (2) "Emergency medical services provider" means any of the following:

(a) An individual who is licensed as an emergency medical technician or certified as a first responder under s. 256.15.

(b) An individual who was at any time in the previous 10 years, but is not currently, licensed as an emergency medical technician or certified as a first responder under s. 256.15, if the individual's license was never revoked, limited, suspended, or denied renewal.

(c) An individual who holds a valid, unexpired license, certification, or registration issued by another state or territory that authorizes or qualifies the

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1 individual to perform acts that are substantially the same as those acts that an
2 individual under par. (a) is licensed or certified to perform.

3 **SECTION 261.** 257.01 (3) of the statutes is created to read:

4 257.01 (3) "Funeral director" means any of the following:

5 (a) An individual who is licensed as a funeral director under ch. 445.

6 (b) An individual who was at any time within the previous 10 years, but is not
7 currently, licensed as a funeral director under ch. 445, if the individual's license was
8 never revoked, limited, suspended, or denied renewal.

9 (c) An individual who holds a valid, unexpired license, certification, or
10 registration issued by another state or territory that authorizes or qualifies the
11 individual to perform acts that are substantially the same as those acts that an
12 individual under par. (a) is licensed to perform.

13 **SECTION 262.** 257.01 (5) (b) and (c) of the statutes are created to read:

14 257.01 (5) (b) An individual who was at any time within the previous 10 years,
15 but is not currently, licensed as a physician, a physician assistant, or a podiatrist
16 under ch. 448, licensed as a registered nurse, licensed practical nurse, or
17 nurse-midwife, under ch. 441, licensed as a dentist under ch. 447, licensed as a
18 pharmacist under ch. 450, or certified as a respiratory care practitioner under ch.
19 448, if the individual's license or certification was never revoked, limited, suspended,
20 or denied renewal.

21 (c) An individual who holds a valid, unexpired license, certification, or
22 registration issued by another state or territory that authorizes or qualifies the
23 individual to perform acts that are substantially the same as those acts that an
24 individual under par. (a) is licensed or certified to perform.

25 **SECTION 263.** 257.01 (7) of the statutes is created to read:

SENATE BILL 226**SECTION 263**

1 257.01 (7) “Nurse aide” means any of the following:

2 (a) An individual who satisfies the requirements for a nurse aide under s.
3 146.40 (2) (a), (c), (e), (em), or (g).

4 (b) An individual who did at any time within the previous 10 years, but does
5 not currently, satisfy the requirements for a nurse aide under s. 146.40 (2) (a), (c), (e),
6 (em), or (g), if the individual’s name has never been listed under s. 146.40 (4g) (a) 2.,
7 2005 stats., or s. 146.40 (4g) (a) 2.

8 (c) An individual who holds a valid, unexpired license, certification, or
9 registration issued by another state or territory that authorizes or qualifies the
10 individual to perform acts that are substantially the same as those acts that an
11 individual under par. (a) is qualified to perform.

12 **SECTION 264.** 257.01 (8) of the statutes is created to read:

13 257.01 (8) “Practitioner” means a behavioral health provider, emergency
14 medical services provider, funeral director, health care provider, nurse aide, pupil
15 services provider, substance abuse prevention provider, or veterinary provider.

16 **SECTION 265.** 257.01 (9) (b) and (c) of the statutes are created to read:

17 257.01 (9) (b) An individual who was at any time within the previous 10 years,
18 but is not currently, licensed as a school counselor, a school psychologist, or a school
19 social worker under rules promulgated by the department of public instruction, if the
20 individual’s license was never revoked, limited, suspended, or denied renewal.

21 (c) An individual who holds a valid, unexpired license, certification, or
22 registration issued by another state or territory that authorizes or qualifies the
23 individual to perform acts that are substantially the same as those acts that an
24 individual under par. (a) is licensed to perform.

25 **SECTION 266.** 257.01 (10) of the statutes is created to read:

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1 257.01 (10) “State of emergency” means a state of emergency declared under
2 s. 323.10 or 323.11 or a federal state of emergency.

3 **SECTION 267.** 257.01 (11) (b) and (c) of the statutes are created to read:

4 257.01 (11) (b) An individual who was at any time in the previous 10 years, but
5 is not currently, certified as a counselor, supervisor, or specialist described under s.
6 HFS 75.02 (11) and (84), Wis. Adm. Code, in effect on January 20, 2006, or certified
7 as a substance abuse counselor, clinical supervisor, or prevention specialist under s.
8 440.88, if the individual’s certification was never revoked, limited, suspended, or
9 denied renewal.

10 (c) An individual who holds a valid, unexpired license, certification, or
11 registration issued by another state or territory that authorizes or qualifies the
12 individual to perform acts that are substantially the same as those acts that an
13 individual under par. (a) is certified to perform.

14 **SECTION 268.** 257.01 (12) of the statutes is created to read:

15 257.01 (12) “Veterinary provider” means any of the following:

16 (a) An individual who is licensed as a veterinarian or certified as a veterinary
17 technician under ch. 453.

18 (b) An individual who was at any time within the previous 10 years, but is not
19 currently, licensed as a veterinarian or certified as a veterinary technician under ch.
20 453, if the individual’s license or certification was never revoked, limited, suspended,
21 or denied renewal.

22 (c) An individual who holds a valid, unexpired license, certification, or
23 registration issued by another state or territory that authorizes or qualifies the
24 individual to perform acts that are substantially the same as those acts that an
25 individual under par. (a) is licensed or certified to perform.

SENATE BILL 226**SECTION 269**

1 **SECTION 269.** 257.02 of the statutes is created to read:

2 **257.02 Volunteer registry.** The department shall establish and maintain an
3 electronic system that may be used to verify the credentials of and register volunteer
4 practitioners before or during a state of emergency.

5 **SECTION 270.** 257.03 (title) of the statutes is created to read:

6 **257.03 (title) Volunteer practitioners indemnified.**

7 **SECTION 271.** 257.03 (1) (b), (c) and (d) of the statutes are created to read:

8 **257.03 (1) (b)** The health care facility, mass clinic, department, or local health
9 department on whose behalf the practitioner provides the services does not
10 compensate the practitioner for the services, except the health care facility, mass
11 clinic, department, or local health department may reimburse the practitioner for
12 travel, lodging, or meals. The practitioner's employer may compensate the
13 practitioner for the services as long as the employer is not the health care facility,
14 mass clinic, department, or local health department on whose behalf the services are
15 provided.

16 (c) The practitioner is registered in the system under s. 257.02.

17 (d) If the practitioner provides the services at a health care facility or mass
18 clinic, the practitioner first registers in writing with the health care facility or mass
19 clinic.

20 **SECTION 272.** 257.03 (2) of the statutes is created to read:

21 **257.03 (2)** A practitioner who provides services under sub. (1) is not considered
22 an employee of the state for worker's compensation benefits under ch. 102 if the
23 practitioner's employer compensates the practitioner for providing the services.

24 **SECTION 273.** 257.03 (3) of the statutes is created to read:

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1 257.03 (3) A practitioner is not a state agent of the department under ss. 165.25
2 (6), 893.82, and 895.46 if the practitioner’s acts or omissions involve reckless,
3 wanton, or intentional misconduct.

4 **SECTION 274.** 257.04 of the statutes is created to read:

5 **257.04 Health care facilities indemnified.** The health care facility on
6 whose behalf services under s. 257.03 are provided is, for the provision of the services,
7 a state agent of the department for purposes of ss. 165.25 (6), 893.82, and 895.46.

8 **SECTION 275.** 292.11 (12) (b) of the statutes is amended to read:

9 292.11 (12) (b) This section applies to all releases of hazardous substances for
10 which a notification must be made under s. ~~166.20 (5) (a) 2.~~ 323.60 (5) (b).

11 **SECTION 276.** 321.39 (1) (a) 3. of the statutes is amended to read:

12 321.39 (1) (a) 3. If the governor declares a state of emergency relating to public
13 health under s. ~~166.03 (1) (b)~~ 323.10.

14 **SECTION 277.** 321.65 (1) (a) 2. of the statutes is amended to read:

15 321.65 (1) (a) 2. Active service with the state laboratory of hygiene under s.
16 36.25 (11) (em) for the purpose of assisting the department of health services under
17 s. 250.042 during a state of emergency relating to public health declared by the
18 governor under s. ~~166.03 (1) (b) 1.~~ 323.10.

19 **SECTION 278.** Chapter 323 (title) of the statutes is created to read:

20 **CHAPTER 323**

21 **EMERGENCY MANAGEMENT**

22 **SECTION 279.** Subchapter I (title) of chapter 323 [precedes 323.01] of the
23 statutes is created to read:

24 **CHAPTER 323**

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SUBCHAPTER I

GENERAL PROVISIONS

SECTION 280. 323.02 (6) of the statutes is created to read:

323.02 (6) “Disaster” means a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this state or a portion of this state, or critical systems, including computer, telecommunications, or agricultural systems.

SECTION 281. 323.02 (10) of the statutes is created to read:

323.02 (10) “Law enforcement officer” has the meaning given in s. 165.85 (2) (c).

SECTION 282. 323.02 (15) of the statutes is created to read:

323.02 (15) “Local unit of government” means a county, city, village, or town.

SECTION 283. 323.02 (17) of the statutes is created to read:

323.02 (17) “Public works” means the physical structures and facilities developed or acquired by a local unit of government or a federally recognized American Indian tribe or band in this state to provide services and functions for the benefit and use of the public, including water, sewerage, waste disposal, utilities, and transportation.

SECTION 284. 323.02 (19) of the statutes is created to read:

323.02 (19) “State agency” means any office, commission, board, department, or bureau of state government.

SECTION 285. Subchapter II (title) of chapter 323 [precedes 323.10] of the statutes is created to read:

CHAPTER 323

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SUBCHAPTER II

POWERS AND DUTIES RELATED TO

EMERGENCY MANAGEMENT

SECTION 286. 323.12 (title) of the statutes is created to read:

323.12 (title) Governor; duties and powers.

SECTION 287. 323.12 (1) (intro.) of the statutes is created to read:

323.12 (1) ONGOING DUTIES. (intro.) The governor shall do all of the following:

SECTION 288. 323.12 (2) (intro.) of the statutes is created to read:

323.12 (2) ONGOING POWERS. (intro.) The governor may do all of the following:

SECTION 289. 323.12 (4) (intro.) of the statutes is created to read:

323.12 (4) POWERS DURING AN EMERGENCY. (intro.) The governor may do all of the following during a state of emergency declared under s. 323.10:

SECTION 290. 323.13 (title) of the statutes is created to read:

323.13 (title) Adjutant general; duties and powers.

SECTION 291. 323.13 (1) (title) of the statutes is created to read:

323.13 (1) (title) ONGOING DUTIES.

SECTION 292. 323.13 (1) (a) of the statutes is created to read:

323.13 (1) (a) Serve as the governor’s principal assistant for directing and coordinating emergency management activities.

SECTION 293. 323.13 (2) (h) of the statutes is created to read:

323.13 (2) (h) Make payments for disaster assistance under ss. 323.30 and 323.31.

SECTION 294. 323.14 (1) (title) of the statutes is created to read:

323.14 (1) (title) ONGOING DUTIES.

SECTION 295. 323.14 (1) (a) 1. of the statutes is created to read:

SENATE BILL 226**SECTION 295**

1 323.14 (1) (a) 1. Subject to subd. 3., each county board shall develop and adopt
2 an emergency management plan and program that is compatible with the state plan
3 of emergency management under s. 323.13 (1) (b).

4 **SECTION 296.** 323.14 (2) (title) of the statutes is created to read:

5 323.14 (2) (title) ONGOING POWERS.

6 **SECTION 297.** 323.14 (2) (a) of the statutes is created to read:

7 323.14 (2) (a) The governing body of a local unit of government may appropriate
8 funds and levy taxes for its emergency management program under sub. (1).

9 **SECTION 298.** 323.14 (3) (title) of the statutes is created to read:

10 323.14 (3) (title) DUTIES DURING AN EMERGENCY.

11 **SECTION 299.** 323.14 (4) (title) of the statutes is created to read:

12 323.14 (4) (title) POWERS DURING AN EMERGENCY.

13 **SECTION 300.** 323.15 (title) of the statutes is created to read:

14 **323.15 (title) Heads of emergency management; duties and powers.**

15 **SECTION 301.** 323.15 (1) (title) of the statutes is created to read:

16 323.15 (1) (title) ONGOING DUTIES.

17 **SECTION 302.** 323.17 of the statutes is created to read:

18 **323.17 State traffic patrol officers and conservation wardens.** If the
19 governor calls out the state traffic patrol or conservation warden service, or members
20 of the patrol or service, under s. 323.12 (2) (c), the state traffic patrol officers or
21 conservation wardens subject to the call shall have the powers of a law enforcement
22 officer for the duration determined by the governor, except that the officers and
23 wardens may not be used in or take part in any dispute or controversy between an
24 employer and employee concerning wages, hours, labor, or working conditions.

25 **SECTION 303.** 323.18 of the statutes is created to read:

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1 **323.18 State agency volunteers.** A state agency may register or preregister
2 volunteers to assist the agency during a disaster, an imminent threat of a disaster,
3 or a related training exercise.

4 **SECTION 304.** 323.19 of the statutes is created to read:

5 **323.19 State official authority to grant variances to statutes and rules**
6 **for a disaster. (1)** The secretary of health services may grant a hospital a variance
7 to a statute or rule affecting hospitals in response to a disaster as provided in s. 50.36
8 (6).

9 **(2)** The pharmacy examining board may grant a variance to ch. 450 or a rule
10 promulgated under ch. 450 in response to a disaster as provided in s. 450.02 (3m).

11 **SECTION 305.** Subchapter III (title) of chapter 323 [precedes 323.30] of the
12 statutes is created to read:

13 **CHAPTER 323**

14 SUBCHAPTER III

15 DISASTER ASSISTANCE PROGRAMS

16 **SECTION 306.** Subchapter IV (title) of chapter 323 [precedes 323.40] of the
17 statutes is created to read:

18 **CHAPTER 323**

19 SUBCHAPTER IV

20 LIABILITY AND EXEMPTIONS

21 **SECTION 307.** 323.40 of the statutes is created to read:

22 **323.40 Responsibility for worker's compensation. (1) EMPLOYEES OF**
23 LOCAL UNIT OF GOVERNMENT. An employee of a local unit of government's emergency
24 management program is an employee of that local unit of government for worker's
25 compensation under ch. 102 unless the responsibility to pay worker's compensation

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1 benefits are assigned as provided under s. 66.0313 or under an agreement between
2 the local unit of government and the state or another local unit of government.

3 (2) STATE AGENCY VOLUNTEERS. A volunteer who registers with a state agency
4 to assist the agency without compensation, other than reimbursement for travel,
5 lodging, or meals, during a disaster, an imminent threat of a disaster, or a related
6 training exercise is considered an employee of the agency for worker’s compensation
7 under ch. 102, for purposes of any claim related to the assistance provided.

8 (3) LOCAL UNIT OF GOVERNMENT VOLUNTEERS. (a) Except as provided in par. (b),
9 an individual who registers in writing with a local unit of government’s emergency
10 management program to provide his or her own labor without compensation, other
11 than reimbursement for travel, lodging, or meals, during a disaster, an imminent
12 threat of a disaster, or a related training exercise is considered an employee of the
13 local unit of government for worker’s compensation under ch. 102 for purposes of any
14 claim relating to the labor provided.

15 (b) This subsection does not apply to an individual’s provision of services if s.
16 257.03 applies.

17 **SECTION 308.** 323.41 (title), (1), (2), (3) and (4) of the statutes are created to
18 read:

19 **323.41 (title) Liability of state or local unit of government. (1) EMPLOYEE**
20 **OF LOCAL UNIT OF GOVERNMENT.** An employee of a local unit of government’s emergency
21 management program is an employee of that local unit of government under ss.
22 893.80, 895.35, and 895.46 for purposes of any claim, unless the responsibility
23 related to a claim under ss. 893.80, 895.35, and 895.46 is assigned as provided under
24 s. 66.0313 or under an agreement between the local unit of government and the state
25 or another local unit of government.

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1 **(2) STATE AGENCY VOLUNTEERS.** Except as provided in s. 323.45, a volunteer who
2 registers with a state agency to assist the agency without compensation, other than
3 reimbursement for travel, lodging, or meals, during a disaster, an imminent threat
4 of a disaster, or a related training exercise is considered an employee of the agency
5 under ss. 893.82 and 895.46, for purposes of any claim related to the assistance
6 provided.

7 **(3) LOCAL UNIT OF GOVERNMENT VOLUNTEERS.** (a) Except as provided in par. (b),
8 an individual who registers in writing with a local unit of government's emergency
9 management program to provide his or her own labor without compensation, other
10 than reimbursement for travel, lodging, or meals, during a disaster, an imminent
11 threat of a disaster, or a related training exercise is considered an employee of the
12 local unit of government under ss. 893.80, 895.35, and 895.46 for purposes of any
13 claim relating to the labor provided.

14 (b) This subsection does not apply to an individual's provision of services if s.
15 257.03 or 323.45 applies.

16 **(4) EXCEPTIONS.** This section does not apply if the person's act or omission
17 involves reckless, wanton, or intentional misconduct.

18 **SECTION 309.** 323.42 of the statutes is created to read:

19 **323.42 Reimbursement of local units of government.** (1) In any calendar
20 year, if the amount the local unit of government is liable for under ss. 323.40 and
21 323.41 plus losses incurred under s. 323.43 exceed \$1 per capita of the local unit of
22 government's population, the state shall reimburse the local unit of government the
23 amount of the excess.

24 **(2)** In addition, the state shall reimburse a local unit of government for any
25 future expenses for worker's compensation and expenses under ss. 893.80, 895.35,

SENATE BILL 226**SECTION 309**

1 and 895.46 that result from an incident that occurred in a calendar year for which
2 the state reimbursed the local unit of government under sub. (1).

3 (3) The reimbursement under this section shall be made from the
4 appropriation in s. 20.465 (3) (a) upon approval of the adjutant general.

5 **SECTION 310.** 323.45 (4) of the statutes is created to read:

6 323.45 (4) (a) This section does not apply to a person's provision of services if
7 s. 257.03 or 323.41 applies.

8 (b) This section does not apply to a person's provision of facilities if s. 257.04
9 or 323.44 applies.

10 **SECTION 311.** Subchapter V (title) of chapter 323 [precedes 323.50] of the
11 statutes is created to read:

CHAPTER 323**SUBCHAPTER V****EMERGENCY LOCATION AND****CONTINUITY OF GOVERNMENT**

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14
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16 **SECTION 312.** 323.50 (1) of the statutes, as affected by 2009 Wisconsin Act
17 (this act), is amended to read:

18 323.50 (1) "Interim successor" means a person designated under this
19 subchapter, if the officer is unavailable as the result of ~~enemy action~~ a disaster or the
20 imminent threat of a disaster, to exercise the powers and discharge the duties of an
21 office until a successor is appointed or elected and qualified as provided by law or
22 until the lawful incumbent is able to resume the exercise of the powers and discharge
23 the duties of the office.

24 **SECTION 313.** 323.53 (1) of the statutes, as affected by 2009 Wisconsin Act
25 (this act), is amended to read:

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1 323.53 (1) EMERGENCY INTERIM SUCCESSORS TO OFFICE OF GOVERNOR. If, during
2 a state of emergency resulting from ~~enemy action~~ a disaster or the imminent threat
3 of a disaster, the governor is unavailable and the lieutenant governor and the
4 secretary of state are unavailable, the attorney general, state treasurer, speaker of
5 the assembly, and the president of the senate shall in the order named if the
6 preceding named officers are unavailable, exercise the powers and discharge the
7 duties of the office of governor until a new governor is elected and qualified, or until
8 a preceding named officer becomes available; but no interim successor to those offices
9 may serve as governor.

10 **SECTION 314.** 323.53 (2) (b) (intro.) of the statutes, as affected by 2009
11 Wisconsin Act (this act), is amended to read:

12 323.53 (2) (b) (intro.) If, during a state of emergency resulting from ~~enemy~~
13 ~~action~~ a disaster or the imminent threat of a disaster, any state officer is unavailable
14 and his or her deputy, if any, is also unavailable, the powers of his or her office shall
15 be exercised and the duties of his or her office shall be discharged by his or her
16 designated interim successors in the order specified. The interim successor shall
17 exercise the powers and discharge the duties of the office only until any of the
18 following occurs:

19 **SECTION 315.** 323.54 (1) of the statutes, as affected by 2009 Wisconsin Act
20 (this act), is amended to read:

21 323.54 (1) The governing body of any political subdivision may enact
22 ordinances and resolutions to provide a method by which interim appointments to
23 public office are made during periods of emergency to fill vacancies in offices that
24 result from ~~enemy action~~ a disaster or the imminent threat of a disaster. The
25 ordinances or resolutions shall define the scope of the powers and duties that interim

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1 appointees may exercise, and shall provide for termination of the interim
2 appointments.

3 **SECTION 316.** 323.55 (title) of the statutes is created to read:

4 **323.55 (title) Interim successors.**

5 **SECTION 317.** 323.55 (3) of the statutes, as affected by 2009 Wisconsin Act
6 (this act), is amended to read:

7 323.55 (3) PERIOD DURING WHICH AUTHORITY MAY BE EXERCISED. An interim
8 successor to an office may discharge the duties of the office only during the
9 continuance of an emergency resulting from ~~enemy action in the form of an attack~~
10 a disaster or the imminent threat of a disaster. The legislature, by joint resolution,
11 may at any time terminate the authority of an interim successor to exercise the
12 powers and discharge the duties of office provided in this subchapter.

13 **SECTION 318.** Subchapter VI (title) of chapter 323 [precedes 323.60] of the
14 statutes is created to read:

15 **CHAPTER 323**

16 SUBCHAPTER VI

17 EMERGENCY PLANNING

18 **SECTION 319.** Subchapter VII (title) of chapter 323 [precedes 323.70] of the
19 statutes is created to read:

20 **CHAPTER 323**

21 SUBCHAPTER VII

22 EMERGENCY RESPONSE TEAMS

23 **SECTION 320.** Subchapter VIII (title) of chapter 323 [precedes 323.80] of the
24 statutes is created to read:

25 **CHAPTER 323**

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SUBCHAPTER VIII

EMERGENCY MANAGEMENT ASSISTANCE

COMPACT

SECTION 321. 341.04 (intro.) of the statutes is amended to read:

341.04 Penalty for operating unregistered or improperly registered vehicle. (intro.) Except during a state of emergency proclaimed under ch. ~~166~~ 323:

SECTION 322. 440.88 (5) of the statutes is amended to read:

440.88 **(5)** CERTIFICATION REQUIRED. Except as provided in sub. (3m) and s. ~~250.042 (4) (b)~~ 257.03, no person may represent himself or herself to the public as a substance abuse counselor, clinical supervisor, or prevention specialist or a certified substance abuse counselor, clinical supervisor, or prevention specialist or use in connection with his or her name a title or description that conveys the impression that he or she is a substance abuse counselor, clinical supervisor, or prevention specialist or a certified substance abuse counselor, clinical supervisor, or prevention specialist unless he or she is so certified under sub. (2).

SECTION 323. 441.06 (4) of the statutes is amended to read:

441.06 **(4)** Except as provided in s. ~~250.042 (4) (b)~~ 257.03, no person may practice or attempt to practice professional nursing, nor use the title, letters, or anything else to indicate that he or she is a registered or professional nurse unless he or she is licensed under this section. Except as provided in s. ~~250.042 (4) (b)~~ 257.03, no person not so licensed may use in connection with his or her nursing employment or vocation any title or anything else to indicate that he or she is a trained, certified or graduate nurse. This subsection does not apply to any person who is licensed to practice nursing by a jurisdiction, other than this state, that has adopted the nurse licensure compact under s. 441.50.

SENATE BILL 226**SECTION 324**

1 **SECTION 324.** 441.10 (3) (c) of the statutes is amended to read:

2 441.10 (3) (c) No license is required for practical nursing, but, except as
3 provided in s. ~~250.042 (4) (b)~~ 257.03, no person without a license may hold himself
4 or herself out as a licensed practical nurse or licensed attendant, use the title or
5 letters “Trained Practical Nurse” or “T.P.N.”, “Licensed Practical Nurse” or “L.P.N.”,
6 “Licensed Attendant” or “L.A.”, “Trained Attendant” or “T.A.”, or otherwise seek to
7 indicate that he or she is a licensed practical nurse or licensed attendant. No licensed
8 practical nurse or licensed attendant may use the title, or otherwise seek to act as
9 a registered, licensed, graduate or professional nurse. Anyone violating this
10 subsection shall be subject to the penalties prescribed by s. 441.13. The board shall
11 grant without examination a license as a licensed practical nurse to any person who
12 was on July 1, 1949, a licensed attendant. This paragraph does not apply to any
13 person who is licensed to practice practical nursing by a jurisdiction, other than this
14 state, that has adopted the nurse licensure compact under s. 441.50.

15 **SECTION 325.** 441.15 (2) (intro.) of the statutes is amended to read:

16 441.15 (2) (intro.) Except as provided in sub. (2m) and s. ~~250.042 (4) (b)~~ 257.03,
17 no person may engage in the practice of nurse–midwifery unless each of the following
18 conditions is satisfied:

19 **SECTION 326.** 441.15 (5) (a) 5. of the statutes is amended to read:

20 441.15 (5) (a) 5. The provision of services by a nurse–midwife under s. ~~250.042~~
21 ~~(4) (b)~~ 257.03.

22 **SECTION 327.** 445.04 (2) of the statutes, as affected by 2007 Wisconsin Act 20,
23 is amended to read:

24 445.04 (2) No Except as provided in s. 257.03, no person may engage in the
25 business of a funeral director, or make a representation as engaged in such business,

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1 in whole or in part, unless first licensed as a funeral director by the examining board.
2 Application for a license, other than a renewal, shall be in writing and verified on a
3 form to be furnished by the department. The application must specify the address
4 at which the applicant proposes to conduct the business of a funeral director and
5 shall contain such other information as the examining board requires to determine
6 compliance with the requirements of this chapter. Accompanying the application
7 shall be the initial credential fee determined by the department under s. 440.03 (9)
8 (a), together with affidavits of recommendation from at least 2 persons of the county
9 in which the applicant resides or proposes to conduct the business of a funeral
10 director.

11 **SECTION 328.** 447.03 (1) (intro.) of the statutes is amended to read:

12 447.03 (1) DENTISTS. (intro.) Except as provided under sub. (3) and s. ~~250.042~~
13 ~~(4) (b) 257.03~~, no person may do any of the following unless he or she is licensed to
14 practice dentistry under this chapter:

15 **SECTION 329.** 448.03 (2) (p) of the statutes is amended to read:

16 448.03 (2) (p) The provision of services by a health care provider under s.
17 ~~250.042 (4) (b) 257.03~~.

18 **SECTION 330.** 448.03 (3) (a) (intro.) of the statutes is amended to read:

19 448.03 (3) (a) (intro.) Except as provided in s. ~~250.042 (4) (b) 257.03~~, no person
20 may use or assume the title “doctor of medicine” or append to the person’s name the
21 letters “M.D.” unless one of the following applies:

22 **SECTION 331.** 448.03 (3) (b) of the statutes is amended to read:

23 448.03 (3) (b) Except as provided in s. ~~250.042 (4) (b) 257.03~~, no person not
24 possessing the degree of doctor of osteopathy may use or assume the title “doctor of
25 osteopathy” or append to the person’s name the letters “D.O.”.

SENATE BILL 226**SECTION 332**

1 **SECTION 332.** 448.03 (3) (e) of the statutes is amended to read:

2 448.03 (3) (e) Except as provided in s. ~~250.042 (4) (b)~~ 257.03, no person may
3 designate himself or herself as a “physician assistant” or use or assume the title
4 “physician assistant” or append to the person’s name the words or letters “physician
5 assistant” or “P.A.” or any other titles, letters or designation which represents or may
6 tend to represent the person as a physician assistant unless he or she is licensed as
7 a physician assistant by the board.

8 **SECTION 333.** 448.61 of the statutes is amended to read:

9 **448.61 License required.** Except as provided in ss. ~~250.042 (4) (b)~~ 257.03 and
10 448.62, no person may practice podiatry, designate himself or herself as a podiatrist,
11 use or assume the title “doctor of surgical chiropody”, “doctor of podiatry” or “doctor
12 of podiatric medicine”, or append to the person’s name the words or letters “doctor”,
13 “Dr.”, “D.S.C.”, “D.P.M.”, “foot doctor”, “foot specialist” or any other title, letters or
14 designation which represents or may tend to represent the person as a podiatrist
15 unless the person is licensed under this subchapter.

16 **SECTION 334.** 448.66 of the statutes is amended to read:

17 **448.66 Malpractice.** Except as provided in s. ~~250.042 (4) (b)~~ 257.03, a person
18 who practices podiatry without having a license under this subchapter may be liable
19 for malpractice, and his or her ignorance of a duty ordinarily performed by a licensed
20 podiatrist shall not limit his or her liability for an injury arising from his or her
21 practice of podiatry.

22 **SECTION 335.** 450.03 (1) (h) of the statutes is amended to read:

23 450.03 (1) (h) The provision of services by a health care provider under s.
24 ~~250.042 (4) (b)~~ 257.03.

25 **SECTION 336.** 450.145 (1) (c) of the statutes is amended to read:

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1 450.145 (1) (c) The dispensing of a prescription by the pharmacist or pharmacy
2 for treatment of a disease that is relatively uncommon or may be associated with
3 bioterrorism, as defined in s. ~~166.02 (1r)~~ 323.02 (4).

4 **SECTION 337.** 453.05 (1) of the statutes is amended to read:

5 453.05 (1) Except as provided under sub. (2) and s. ~~250.042 (4) (b)~~ 257.03, no
6 person may offer to practice, advertise to practice or practice veterinary medicine,
7 or use, in connection with his or her name, any title or description which may convey
8 the impression that he or she is a veterinarian, without a license or temporary permit
9 from the examining board. For purposes of this subsection, a person who makes
10 extra-label use of a drug on an animal without a prescription or in any manner not
11 authorized by that prescription is considered to be practicing veterinary medicine.

12 **SECTION 338.** 455.02 (1m) of the statutes is amended to read:

13 455.02 (1m) LICENSE REQUIRED TO PRACTICE. Except as provided in s. ~~250.042~~
14 ~~(4) (b)~~ 257.03, no person may engage in the practice of psychology or the private
15 practice of school psychology, or attempt to do so or make a representation as
16 authorized to do so, without a license issued by the examining board.

17 **SECTION 339.** 455.02 (3m) of the statutes is amended to read:

18 455.02 (3m) USE OF TITLES. Except as provided in s. ~~250.042 (4) (b)~~ 257.03, only
19 an individual licensed under s. 455.04 (1) may use the title “psychologist” or any
20 similar title or state or imply that he or she is licensed to practice psychology, and
21 only an individual licensed under s. 455.04 (4) may use the title “private practice
22 school psychologist” or any similar title or state or imply that he or she is licensed
23 to engage in the private practice of school psychology. Except as provided in s.
24 ~~250.042 (4) (b)~~ 257.03, only an individual licensed under s. 455.04 (1) or (4) may

SENATE BILL 226**SECTION 339**

1 represent himself or herself to the public by any description of services incorporating
2 the word “psychological” or “psychology”.

3 **SECTION 340.** 457.04 (intro.) of the statutes is amended to read:

4 **457.04 Prohibited practices.** (intro.) Except as provided in ss. 250.042 (4)
5 (b) 257.03 and 457.02, no person may do any of the following:

6 **SECTION 341.** 801.50 (3m) of the statutes is created to read:

7 801.50 (3m) Venue in an action under s. 323.60 (8) or (9) related to hazardous
8 substance releases shall be in the county as provided under s. 323.60 (10).

9 **SECTION 342.** 893.82 (2) (d) 1n. of the statutes is amended to read:

10 893.82 (2) (d) 1n. A behavioral health provider, health care provider, pupil
11 services provider, or substance abuse prevention provider practitioner who provides
12 services under s. ~~250.042 (4)~~ 257.03 and a health care facility on whose behalf
13 services are provided under s. ~~250.042 (4)~~ 257.04, for the provision of those services.

14 **SECTION 343.** 895.46 (5) (am) of the statutes is amended to read:

15 895.46 (5) (am) A behavioral health provider, health care provider, pupil
16 services provider, or substance abuse prevention provider practitioner who provides
17 services under s. ~~250.042 (4)~~ 257.03 and a health care facility on whose behalf
18 services are provided under s. ~~250.042 (4)~~ 257.04.

19 **SECTION 344.** 895.483 (1) of the statutes is amended to read:

20 895.483 (1) A regional emergency response team, a member of such a team, and
21 a local agency, as defined in s. ~~166.22 (1) (e)~~ 323.70 (1) (b), that contracts with the
22 division of emergency management in the department of military affairs for the
23 provision of a regional emergency response team, are immune from civil liability for
24 acts or omissions related to carrying out responsibilities under a contract under s.
25 ~~166.215 (1)~~ 323.70 (2).

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1 **SECTION 345.** 895.483 (2) of the statutes is amended to read:

2 895.483 **(2)** A local emergency response team, a member of such a team and the
3 county, city, village, or town that contracts to provide the emergency response team
4 to the county are immune from civil liability for acts or omissions related to carrying
5 out responsibilities pursuant to a designation under s. ~~166.21 (2m) (e)~~ 323.61 (2m)
6 (e).

7 **SECTION 346.** 895.483 (3) of the statutes is amended to read:

8 895.483 **(3)** A local emergency planning committee created under s. 59.54 (8)
9 (a) 1. that receives a grant under s. ~~166.21~~ 323.61 is immune from civil liability for
10 acts or omissions related to carrying out responsibilities under s. ~~166.21~~ 323.61.

11 **SECTION 347.** 895.51 (2m) of the statutes is amended to read:

12 895.51 **(2m)** Any person engaged in the manufacturing, distribution, or sale
13 of qualified emergency household products, for profit or not for profit, who donates
14 or sells, at a price not to exceed overhead and transportation costs, qualified
15 emergency household products to a charitable organization or governmental unit in
16 response to a state of emergency declared under s. ~~166.03 (1) (b) 1. or 166.23~~ 323.10
17 or 323.11 is immune from civil liability for the death of or injury to an individual
18 caused by the qualified emergency household product donated or sold by the person.

19 **SECTION 348.** 895.55 (2) (intro.) of the statutes is amended to read:

20 895.55 **(2)** (intro.) Notwithstanding any provision of s. 93.57, 299.11, 299.13,
21 299.31, 299.43, 299.45, 299.51, 299.53 or 299.55, subchs. II and IV of ch. 30, ch. 29,
22 ~~166, 281, 283, 289, 291 or, 292, or 323~~ or subch. II of ch. 295, or any other provision
23 of this chapter, a person is immune from liability for damages resulting from the
24 person's acts or omissions and for the removal costs resulting from the person's acts
25 or omissions if all of the following conditions are met:

SENATE BILL 226**SECTION 349**

1 **SECTION 349.** 979.012 (1) of the statutes is amended to read:

2 979.012 (1) If a coroner or medical examiner is aware of the death of a person
3 who, at the time of his or her death, had an illness or a health condition that satisfies
4 s. ~~166.02 (7) (a)~~ 323.02 (16) (a) or if the coroner or medical examiner knows or
5 suspects that the person had a communicable disease that, under rules promulgated
6 by the department of health services, must be reported to a local health officer or to
7 the state epidemiologist, the coroner or medical examiner shall report the illness,
8 health condition, or communicable disease to the department of health services and
9 to the local health department, as defined in s. 250.01 (4), in whose jurisdiction the
10 coroner or medical examiner is located in writing or by electronic transmission
11 within 24 hours of learning of the deceased's illness, health condition, or
12 communicable disease.

13 **SECTION 350.** Laws of 1965, chapter 583, section 9 is amended to read:

14 [Laws of 1965, chapter 583] Section 9 This act shall take effect upon the filing
15 with the secretary of state and revisor of statutes legislative reference bureau, by the
16 ~~director~~ secretary of the state department of agriculture, trade and consumer
17 protection, of a statement certifying that an act ratifying and enacting into the law
18 the pest control compact substantially in the form set forth herein has been adopted
19 by the states of Illinois, Iowa, Michigan and Minnesota.

20 **SECTION 351. Initial applicability.**

21 (1) The renumbering and amendment of section 94.77 of the statutes and the
22 creation of section 94.77 (2) and (3) of the statutes first apply to violations committed
23 on the effective date of this subsection.

24 **SECTION 352. Effective dates.** This act takes effect on the day after
25 publication, except as follows:

SENATE BILL 226

1 (1) FUNERAL DIRECTORS. The treatment of section 445.04 (2) of the statutes takes
2 effect on July 1, 2009, or on the day after publication, whichever is later.

3 (2) SUCCESSION IN EMERGENCIES RESULTING FROM DISASTER. The amendment of
4 sections 323.50 (1), 323.53 (1) and (2) (b) (intro.), 323.54 (1), and 323.55 (3) of the
5 statutes takes effect on the day after the secretary of state notifies the legislature
6 that an amendment to the Wisconsin Constitution has been approved that requires
7 the legislature to provide for temporary succession to the powers and duties of public
8 offices for the period of an emergency resulting from a cause other than an enemy
9 action.

10

(END)