



WISCONSIN LEGISLATIVE COUNCIL

SPECIAL COMMITTEE ON EMERGENCY MANAGEMENT & CONTINUITY OF GOVERNMENT

Legislative Council Conference Room
Madison, WI

April 2, 2009
9:00 a.m. – 12:45 p.m.

[The following is a summary of the April 2, 2009 meeting of the Special Committee on Emergency Management and Continuity of Government. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chair Jauch called the meeting to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Senator Robert Jauch, Chair; Representative Joan Ballweg, Vice Chair; Representatives Samantha Kerkman and Marlin Schneider; and Public Members Gary Dalton, Dr. Azita Hamedani, Ken Hartje, Douglas Holton, Keith Kesler, Robert Ritger, Dean Roland, and Johnnie Smith.

COUNCIL STAFF PRESENT: Dick Sweet and Pam Shannon, Senior Staff Attorneys.

Approval of the Minutes of the December 18, 2008 Meeting

Mr. Dalton moved, seconded by Representative Schneider, to approve the minutes of the December 18, 2008 meeting. The motion passed on a unanimous voice vote.

<p>* ATTENTION: This was the final meeting of the Special Committee on Emergency Management and Continuity of Government. Committee members are requested to send any corrections regarding these Minutes to the Legislative Council staff. After the incorporation of any corrections, these Minutes will be considered approved by the committee.</p>
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Discussion of Draft Legislation and Materials

- *Letter to Senator Robert Jauch and Representative Joan Ballweg, from Brian D. Litza, Chief, Emergency Medical Services Section, Wisconsin Department of Health Services (March 11, 2009)*

Mr. Sweet noted that Brian Litza of the Wisconsin Department of Health Services (DHS) had sent to the committee a letter that responded to issues that members had raised at its previous meeting.

- *LRB-0166/P6, relating to emergency management, succession of public offices, liability and licensure of emergency volunteers, disaster relief, ratification of the pest control compact, transportation and disposal of animal carcasses, the plant industry, computation of school days, variance for hospital requirements, public works mutual assistance, emergencies related to computer or telecommunication systems, and providing penalties*
- *LRB-0167/?ins, which shows how the new ch. 323, Stats., will look if LRB-0166/P6 were enacted*
- *LRB-0167/am ins, an amendment to provisions in LRB-0166/P6*
- *Letter from League of Wisconsin Municipalities, Wisconsin Counties Association, Wisconsin Alliance of Cities, and Wisconsin Towns Association (March 13, 2009)*

Mr. Sweet noted that LRB-0166/P6 included some items that had been previously approved by the committee, some items that had been discussed at previous meetings, and some new items. He mentioned that he could summarize for the committee the items in the draft that required committee attention. The draft incorporates provisions that recodify ch. 166, Stats., into a new ch. 323, Stats. In addition, it includes three drafts previously approved by the committee dealing with issues raised by the Department of Agriculture, Trade, and Consumer Protection (DATCP). The draft also includes issues related to liability and licensure of emergency volunteers as recommended by the working group reviewing that issue. The draft also includes issues related to the disaster assistance program, computation of school days when school is closed because of emergencies, variances for hospitals during emergencies, public works mutual assistance, and a new provision suggested by the Department of Administration (DOA) that deals with emergencies related to computer or telecommunication systems.

Mr. Sweet also noted that LRB-0167/?ins shows how the new ch. 323, Stats., would look if LRB-0166/P6 were enacted. The committee also received an amendment to provisions in current law that provide immunity from liability from certain persons and would instead provide that those persons are agents of either the state or a local unit of government, depending on which level of government declared the emergency. Finally, the committee received a letter from organizations representing local units of government expressing concern about treating those persons as agents of local units of government rather than providing immunity from liability as under current law.

The committee proceeded to review various provisions within LRB-0166/P6. The committee discussed the item that allows the Secretary of DHS or his or her designee to grant a variance to a statute affecting hospitals or a rule of DHS during certain disasters. Mr. Ritger questioned whether it would be

possible for an entire region to request a variance for hospitals in the region or whether each hospital would need to do so. Mr. Sweet stated that each individual would have to make such a request under the draft. Representative Kerkman indicated that she would prefer that each hospital have to make the request for the variance. No further action was taken on this item.

After discussion, the committee decided to delete the new reference to ch. 323 on page 16, line 21 since it was unnecessary.

Sheriff Roland questioned the use of the word “shall” in the provision relating to standards for the Mutual Aid Box Alarm System (MABAS) since it is not possible to use this system in rural areas. Mr. Kesler also expressed concern about this provision. Mr. Sweet pointed out that this is a provision in current law. Chair Jauch asked that the committee return to this issue later.

With regard to the new provision that would prohibit an individual from simultaneously serving as the head of emergency management for two or more counties, Mr. Ritger stated that he was aware of one situation in which this had occurred. Mr. Smith stated that the workload of counties in the area of emergency management is increasing and that he prefers the language in the bill draft.

Mr. Sweet noted that the language at the bottom of page 34 of the draft retains current law that provides immunity from liability for persons who provide equipment, materials, facilities, labor, or services and who are acting under the direction of certain officials. An alternative discussed by the working group on liability of volunteers was to treat those persons as agents of a governmental unit and an amendment was drafted to the bill draft to that effect. However, the committee took no action on the amendment.

The committee also reviewed language on page 54 of the draft that dealt with hazardous materials violations. Randi Milsap of the Department of Military Affairs stated that the language should provide that if the alleged violation was allegedly committed on tribal land, only the Department of Justice may enforce the violation.

The committee decided to eliminate SECTION 306 on page 79 of the draft, thereby not limiting the ability of local units of government to set forfeiture levels for violation of their ordinances or resolutions. In response to notes on pages 80 and 81 of the draft as to whether a volunteer could receive reimbursement for food, travel, and lodging and still retain his or her status as a volunteer, both Mr. Dalton and Chair Jauch agreed that such a person should retain his or her volunteer status. The draft will be modified to reflect this.

Mr. Dalton noted that he does not favor the approach in current law that allows persons who are no longer licensed, but have been licensed within the previous 10 years, to qualify under the statute relating to state indemnification for health care volunteers during emergencies. Dr. Hamedani agreed with this assessment. The committee took no action on this issue.

Ms. Shannon described a draft amendment that would amend current statutes to provide recognition for the Administrator of Wisconsin Emergency Management (WEM). Chair Jauch indicated that these provisions make sense since WEM will be called during an emergency. Ms. Milsap stated that the Adjutant General feels that these changes are not necessary and that this has not been a problem. Bob Nelson, Legislative Reference Bureau (LRB) stated that adding “or designee” in this provision, but not elsewhere in the statutes, could create an ambiguity. Ms. Shannon suggested that an alternative

would be to delineate the duties of the WEM administrator in the statutes. Chair Jauch asked that work be done on this language during the lunch break and the draft be brought back to the committee.

Following a lunch break and intervening discussion of other bill drafts, described below, Ms. Shannon described draft language that related to the powers and duties of the administrator of WEM. Chair Jauch asked that this language be included in LRB-0166/P6 when it is redrafted; there was no objection.

Representative Schneider moved, seconded by Chair Jauch, that the committee recommend introduction of LRB-0166/P6, as amended. The motion was approved on a vote of Ayes, 11 (Senator Jauch; Representatives Ballweg, Kerkman, and Schneider; and Public Members Dalton, Hamedani, Hartje, Holton, Kesler, Ritger, and Roland); Noes, 0; and Absent, 1 (Public Member Smith).

- ***LRB-2409/P1, relating to disaster assistance and making an appropriation***

Ms. Shannon described LRB-2409/P1 which relates to appropriating funds for the disaster assistance program. The draft will provide \$1 million general purpose revenue (GPR) in each fiscal year of the next biennium for that program. Chair Jauch added that the purpose of this draft is to send a message to the Joint Committee on Finance to fund this program.

Sheriff Roland moved, seconded by Mr. Dalton, that the committee recommend introduction of LRB-2409/P1. The motion was approved on a vote of Ayes, 11 (Senator Jauch; Representatives Ballweg, Kerkman, and Schneider; and Public Members Dalton, Hamedani, Hartje, Holton, Kesler, Ritger, and Roland); Noes, 0; and Absent, 1 (Public Member Smith).

- ***LRB-2230/P2, relating to regional structural collapse teams and granting rule-making authority***
- ***Letter from Deputy Chief Bryan Northrop, President, Rock County Fire Officers (March 16, 2009)***
- ***Letter from Bradley J. Liggett, Fire Chief, City of Beloit (March 16, 2009)***

Ms. Shannon described LRB-2230/P2, which would put in place statutes relating to regional structural collapse teams. Chair Jauch noted that the draft would put a structure in place for such teams and that additional funding, in addition to billing the responsible party for a collapse, may come at a later time. He indicated that he is looking at funding sources for this program.

Mr. Hartje moved, seconded by Mr. Ritger that the committee recommend introduction of LRB-2230/P2. The motion was approved on a vote of Ayes, 11 (Senator Jauch; Representatives Ballweg, Kerkman, and Schneider; and Public Members Dalton, Hamedani, Hartje, Holton, Kesler, Ritger, and Roland); Noes, 0; and Absent, 1 (Public Member Smith).

- ***WLC: 0375/2, relating to local levy limits and the expenditure restraint program***

Mr. Sweet described WLC: 0375/2, which relates to the levy limit statutes and the expenditure restraint program. He described current law and noted that the draft would provide exceptions to these statutes for the amount that a political subdivision levies to pay the unreimbursed expenses related to an emergency declared by the Governor, including amounts levied to replenish cash reserves used in the previous year to pay any unreimbursed expenses, beginning in the year in which the emergency occurs or the next year. These amounts would not be added to the political subdivision's base levy for purposes of calculating levy limits.

Mr. Ritger moved, seconded by Representative Schneider that the committee recommend introduction of WLC: 0375/2. The motion was approved on a vote of Ayes, 10 (Senator Jauch; Representatives Ballweg and Schneider; and Public Members Dalton, Hamedani, Hartje, Holton, Kesler, Ritger, and Roland); Noes, 1 (Representative Kerkman); and Absent, 1 (Public Member Smith).

- ***LRB-2345/P1, relating to interim successors for legislators, meetings of the legislature and legislative committees, and temporary seat of government for the legislature***

Mr. Sweet explained that LRB-2345/P1 is a compilation of three drafts, previously approved by the committee, related to legislative continuity. No further action was required on this draft. In addition, Mr. Sweet mentioned that the previously approved constitutional amendment on continuity would be in a separate joint resolution; that draft deals with amending the provision in the state constitution that provides for continuity only in the case of enemy attacks.

Other Business

Representative Ballweg noted that the committee had received copies of the portion of Wisconsin Minnesota Collaboration Report that relate to emergency response coordination between Wisconsin and Minnesota. Representative Kerkman added that she hoped that Wisconsin can work on collaboration with other states also.

Representative Ballweg thanked everyone involved in the committee process, including Legislative Council staff, LRB staff, and staff from the various agencies who were involved in providing assistance to the subcommittees and working group.

Chair Jauch thanked everyone and praised the Joint Legislative Council committee process that includes public member participation with legislators in developing legislation. He noted that there was no partisanship on this committee. He also described for members the Joint Legislative Council process and noted that members are free to attend the meeting of the Joint Legislative Council at which the committee's recommendations will be discussed. He added that he will be writing a letter to the Joint Committee on Finance on levy limits and will ask that this be included in the biennial budget bill.

Ms. Shannon mentioned that no date had yet been set for the next meeting of the Joint Legislative Council, but it may occur in late April or early May.

Adjournment

The meeting was adjourned at 12:45 p.m.

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