

Minnesota Emergency Management Act with 2005 Amendments: Minnesota Statutes, Chapter 12

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12.01 Citation.

This chapter may be cited as the "Minnesota Emergency Management Act of 1996."

12.02 Policy declaration.

Subdivision 1. Findings. Because of the existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness and in order to (1) ensure that preparations of this state will be adequate to deal with disasters, (2) generally protect the public peace, health, and safety, and (3) preserve the lives and property of the people of the state, the legislature finds and declares it necessary:

- (1) to create a state Division of Emergency Management, and to require the creation of local organizations for emergency management in the political subdivisions of the state;
- (2) to confer upon the governor and upon governing bodies of the political subdivisions of the state the emergency and disaster powers provided in this chapter;
- (3) to provide for the rendering of mutual aid among the political subdivisions of the

state, with other states, and with Canadian provinces and to cooperate with the federal government with respect to carrying out of emergency management functions; and

- (4) to ensure that financial assistance made available to the state of Minnesota and to eligible applicants in the state, as a result of natural or other disasters, is provided in accord with established rules and regulations.

Subd. 2. Policy. It is further declared to be the purpose of this chapter and the policy of the state that all emergency management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparations and use may be made of the nation's labor supply, resources, and facilities for dealing with any disaster that may occur.

12.03 Definitions.

Subdivision 1. Scope. For the purposes of this chapter, each term defined in this section has the meaning ascribed to it.

Subd. 1a. Activated. "Activated" means engaged in emergency management activities listed in this chapter and authorized by the state director of the Division of Emergency Management.

Subd. 1c. **[Expires 8/1/05.]**

Subd. 1d. City. "City" means a statutory or home rule charter city.

Subd. 1e. Declared Emergency. "Declared emergency" means a national security or peacetime emergency declared by the governor under section 12.31.

Subd. 2. Disaster. "Disaster" means a situation that creates an actual or imminent serious threat to the health and safety of persons, or a situation that has resulted or is likely to result in catastrophic loss to property or the

environment, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

Subd. 2a. Division. "Division" means the Division of Emergency Management in the Department of Public Safety.

Subd. 2b. Dry cask storage facility. "Dry cask storage facility" means a high-level radioactive waste facility for storage of spent nuclear fuel produced by a nuclear reactor at Prairie Island nuclear generating plant.

Subd. 3. Emergency. "Emergency" means an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring.

Subd. 4. Emergency management. "Emergency management" means the preparation for and the carrying out of emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters, from acute shortages of energy, or from incidents occurring at nuclear power plants that pose radiological or other health hazards. These functions include, without limitation, fire-fighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency human services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, implementation of energy supply emergency conservation and allocation measures, and other functions related to civilian protection, together with all other activities necessary or incidental to preparing for and carrying out these functions.

Subd. 4b. Emergency response personnel. "Emergency response personnel" means an individual, organization, or team authorized by the state to supplement state or local resources for emergency response in a stricken area.

Subd. 4c. Energy supply emergency. "Energy supply emergency" means a state of emergency declared by the executive council or the legislature pursuant to section 216C.15 and rules adopted under that section.

Subd. 4d. Facility. "Facility" means any real property, building, structure, or other improvement to real property or any motor vehicle, rolling stock, aircraft, watercraft, or other means of transportation. Facility does not include a private residence but may include a licensed health care facility only when other alternatives are not feasible.

Subd. 5. Federal government. "Federal government" means the United States of America.

Subd. 5b. Hazard mitigation. "Hazard mitigation" means an action taken to reduce or eliminate the long-term risk to human life and property from natural and other types of hazards.

Subd. 5c. Imminent. "Imminent" means clear and present danger to life or property rights as a result of an emergency or disaster.

Subd. 6. Local organization for emergency management. "Local organization for emergency management" means an organization created in accordance with this chapter by the state or a political subdivision to perform local emergency management functions.

Subd. 6a. Medical supplies. "Medical supplies" means any medication, durable medical equipment, instruments, linens, or any other material that a health care provider deems not essential for the continued operation of the provider's practice or facility. The term medical supplies does not apply to medication, durable medical equipment, or other material that is personal property being used by individuals or that has been borrowed, leased, or rented by individuals for the purpose of treatment or care.

Subd. 7a. Person. "Person" includes an individual, firm, corporation, association, limited liability company, partnership, limited

liability partnership, and other business organizations.

Subd. 9. Political subdivision. "Political subdivision" means a county, city, town, or a metropolitan airports commission organized and existing under sections 473.601 to 473.679.

Subd. 9a. [Expires 8/1/05.]

Subd. 10. Specialized equipment. "Specialized equipment" means equipment and supplies essential for emergency management in excess of equipment and supplies provided for normal operation of the state or a political subdivision, to the acquisition of which the state or federal government may contribute.

12.04 Division of emergency management.

Subd. 1. Division created. A division in the Department of Public Safety to be known as the Division of Emergency Management is hereby created, under the supervision and control of a state director. The commissioner of public safety may place the director's position in the unclassified service if the position meets the criteria established in section 43A.08, subdivision 1a.

12.09 Duties of Division of Emergency Management.

Subd. 1. Coordination. The division shall coordinate state agency preparedness for and emergency response to all types of natural and other emergencies and disasters, including discharges of oil and hazardous substances.

Subd. 2. State emergency plan. The division shall develop and maintain a comprehensive state emergency operations plan and emergency management program in accord with section 12.21, subdivision 3, clause (2), and ensure that other state emergency plans that may be developed are coordinated and consistent with the comprehensive state emergency operations plan.

Subd. 3. State answering point system. The division shall establish and maintain a single state answering point system for use by persons

responsible for reporting emergency incidents and conditions involving hazardous substances or oil, nuclear power plant incidents or accidents, or other emergencies or disasters to state agencies, and for requesting state or federal assistance during and following an emergency or disaster.

Subd. 4. Activation of emergency operations centers. The division shall activate the state and regional emergency operations centers when an emergency or disaster threatens or has occurred.

Subd. 5. Assistance to political subdivisions. The division shall provide guidance, information, and training sufficient to allow local political subdivisions to request state and federal disaster assistance.

Subd. 6. Coordination of local programs. The division shall coordinate the development and maintenance of emergency operations plans and emergency management programs by the political subdivisions of this state, with the plans and programs integrated into and coordinated with the emergency operations plan and emergency management program of this state to the fullest possible extent.

Subd. 7. Hazard mitigation plan. The division shall develop and maintain a comprehensive hazard mitigation plan for this state, with the plan integrated into and coordinated with the hazard mitigation plans of the federal government to the fullest possible extent. The division shall coordinate the preparation of hazard mitigation plans by the political subdivisions, with the plans integrated into and coordinated with the hazard mitigation plan of this state to the fullest possible extent.

Subd. 8. Exercise coordination. The division shall coordinate the development and conduct of emergency preparedness drills and exercises involving multiple Minnesota state agencies.

Subd. 9. Volunteer resources coordination. The division shall provide ongoing coordination of a network of state, local, and federal

government agencies and private organizations to ensure the smooth coordination of donations and volunteerism during major disasters. Duties include:

- (1) hotline management, including training, staffing, information distribution, and coordination with emergency operations management;
- (2) coordination between government and private relief agencies;
- (3) networking with volunteer organizations;
- (4) locating resources for anticipated disaster needs and making these resources available to local governments in a database;
- (5) training in disaster preparation;
- (6) revising existing plans based on experience with disasters and testing the plans with simulated disasters; and
- (7) maintaining public information about disaster donations and volunteerism.

12.11 State director; personnel.

Subd. 1. Division created in Department of Public Safety. A Division of Emergency Management is established within the Department of Public Safety under the supervision and control of the governor and a state director of emergency management. The commissioner of public safety shall appoint the state director, who shall not hold any other state office.

Subd. 2. Personnel.

(a) As may be necessary to carry out the purposes of this chapter, the state director may:

- (1) employ technical, clerical, and other personnel; and
- (2) with the approval of the governor, make expenditures within the appropriation made for that purpose or, with the approval of the Executive Council, from other funds made available to the state director for purposes of emergency management.

(b) Division personnel, except the director of emergency management, must be in the classified service of the state civil service.

Subd. 3. Facilities and resources provided. The state director and other personnel of the Division of Emergency Management must be provided with appropriate facilities and resources in the same manner as provided for personnel of other state agencies.

12.13 Nuclear power plant emergency response planning.

Subd. 1. Plan development. The state director, in cooperation with the commissioner of health and affected political subdivisions, shall develop the state and local portions of the emergency operations plans specified in the licensing of each nuclear power plant located in Minnesota.

Subd. 2. Need assessment; program development. In addition to requirements imposed by federal law, the state director shall assess the need for protective actions required to mitigate the effect of an incident at a nuclear power plant, and carry out nuclear power plant emergency operations planning including, but not limited to:

- (1) purchasing equipment for the state and political subdivisions, including public warning systems, protective devices, and communication systems, and preparing public information materials and educational programs;
- (2) coordinating the development of a detailed state and local nuclear emergency operations planning information system for areas surrounding each nuclear plant;
- (3) training state and local emergency response personnel;
- (4) developing accident scenarios and exercises for nuclear emergency operations plans; and
- (5) providing other specialized response equipment necessary.

Subd. 3. Assistance. The director shall provide necessary assistance to other state agencies and political subdivisions to improve the state's nuclear power plant emergency response capacity.

12.14 Assessment for Nuclear Safety Preparedness Act.

A person in the business of owning or operating a nuclear power plant or dry cask storage facility located in Minnesota, shall pay quarterly assessments to cover the cost of nuclear power plant emergency response programs necessary to deal with incidents resulting from either facility. An assessment of up to one quarter of the projected annual cost must be paid to the state director on July 1 of each year. An assessment must be billed by the state director based on actual costs for each quarter of the fiscal year starting with the first quarter ending September 30. The July 1 assessment must be deducted from the final quarterly billing for the fiscal year. The assessment collected must be credited to the nuclear safety preparedness account in the special revenue fund.

12.21 Governor.

Subd. 1. General authority. The governor (1) has general direction and control of emergency management, (2) may carry out the provisions of this chapter, and (3) during a national security emergency declared as existing under section 12.31, during the existence of an energy supply emergency as declared under section 216C.15, or during the existence of an emergency resulting from an incident at a nuclear power plant that poses a radiological or other health hazard, may assume direct operational control over all or any part of the emergency management functions within this state.

Subd. 2. Cooperation. In performing duties under this chapter, the governor may cooperate with the federal government, with other states, with Canadian provinces, and with private agencies, in all matters pertaining to the emergency management of this state and of the nation.

Subd. 3. Specific authority. In performing duties under this chapter and to effect its policy and purpose, the governor may:

- (1) make, amend, and rescind the necessary orders and rules to carry out the provisions of this chapter and section 216C.15 within the limits of the authority conferred by this section, with due consideration of the plans of the federal government and without complying with sections 14.001 to 14.69, but no order or rule has the effect of law except as provided by section 12.32;
- (2) ensure that a comprehensive emergency operations plan and emergency management program for this state are developed and maintained, and are integrated into and coordinated with the emergency plans of the federal government and of other states to the fullest possible extent;
- (3) in accordance with the emergency operations plan and the emergency management program of this state, procure supplies, equipment, and facilities; institute training programs and public information programs; and take all other preparatory steps, including the partial or full activation of emergency management organizations in advance of actual disaster to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need;
- (4) make studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management and to plan for the most efficient emergency use of those industries, resources, and facilities;
- (5) on behalf of this state, enter into mutual aid arrangements or cooperative agreements with other states, tribal authorities, and Canadian provinces, and coordinate mutual aid plans between political subdivisions of this state;
- (6) delegate administrative authority vested in the governor under this chapter, except the power to make rules, and provide for the subdelegation of that authority;
- (7) cooperate with the president and the heads of the armed forces, the Emergency Management Agency of the United States and other appropriate federal officers and

agencies, and with the officers and agencies of other states in matters pertaining to the emergency management of the state and nation, including the direction or control of:

- (i) emergency preparedness drills and exercises;
 - (ii) warnings and signals for drills or actual emergencies and the mechanical devices to be used in connection with them;
 - (iii) shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;
 - (iv) the conduct of persons in the state, including entrance or exit from any stricken or threatened public place, occupancy of facilities, and the movement and cessation of movement of pedestrians, vehicular traffic, and all forms of private and public transportation during, prior, and subsequent to drills or actual emergencies;
 - (v) public meetings or gatherings; and
 - (vi) the evacuation, reception, and sheltering of persons;
- (8) contribute to a political subdivision, within the limits of the appropriation for that purpose, not more than 25 percent of the cost of acquiring organizational equipment that meets standards established by the governor;
- (9) formulate and execute, with the approval of the Executive Council, plans and rules for the control of traffic in order to provide for the rapid and safe movement over public highways and streets of troops, vehicles of a military nature, and materials for national defense and war or for use in any war industry, for the conservation of critical materials, or for emergency management purposes; and coordinate the activities of the departments or agencies of the state and its political subdivisions concerned directly or indirectly with public highways and streets, in a manner that will best effectuate those plans;

- (10) alter or adjust by executive order, without complying with sections 14.01 to 14.69, the working hours, workdays and work week of, and annual and sick leave provisions and payroll laws regarding all state employees in the executive branch as the governor deems necessary to minimize the impact of the disaster or emergency, conforming the alterations or adjustments to existing state laws, rules, and collective bargaining agreements to the extent practicable;
- (11) authorize the commissioner of education to alter school schedules, curtail school activities, or order schools closed as defined in section 120A.05, subdivisions 9, 11, 13, and 17, and including charter schools under section 124D.10, and elementary schools enrolling prekindergarten pupils in district programs; and
- (12) transfer the direction, personnel, or functions of state agencies to perform or facilitate response and recovery programs.

Subd. 4. Plan review, availability. The governor, or state director as designee, shall ensure the conduct of an annual review by state and local officials of the state emergency operations plan specified in the licensing of each nuclear power plant. The review must include, but is not limited to such factors as changes in traffic patterns, population densities, and new construction. Opportunity for full public participation in the annual review shall be provided. Copies of a state emergency operations plan must be published, publicized, and distributed to the news media of the affected community and to the appropriate officials of affected communities and made available to the general public upon request, at no more than the cost of reproduction.

12.22 Assistance, acceptance, rules.

Subd. 1. Federal aid. Whenever the federal government, or an agency or officer of the federal government, offers to the state, or through the state to any political subdivision of the state, services, equipment, supplies, materials, or funds by way of gift, grant or loan, for the purposes of emergency management, the

state, acting through the governor, or the political subdivision, acting with the consent of the governor and through its governing body, may accept the offer and then may authorize an officer of the state or of the political subdivision, as the case may be, to receive the services, equipment, supplies, materials, or funds on behalf of the state or the political subdivision and subject to the terms of the offer and the rules, if any, of the agency making the offer. However, no money or other funds may be accepted or received as a loan nor any indebtedness incurred except as provided by law.

Subd. 2. Individual offers of aid. Whenever a person offers to the state or to a political subdivision of the state, services, equipment, supplies, materials, real property, or funds by the way of gift, grant, or loan, for purposes of civil emergency management, the state, acting through the governor, or a political subdivision, acting through its governing body, may accept the offer and then may authorize an officer of the state or of the political subdivision, as the case may be, to receive the services, equipment, supplies, materials, real property, or funds on behalf of the state or political subdivision, and subject to the terms of the offer. However, no money or other funds may be accepted or received as a loan nor any indebtedness incurred except as provided by law. Real property so accepted must be treated as, and subject to the same immunities during time of national security emergency as, real property owned by the state.

Subd. 2a. Volunteer protections.

(a) Individuals who volunteer to assist a local political subdivision during an emergency or disaster, who register with that subdivision, and who are under the direction and control of that subdivision, are considered an employee of that subdivision for purposes of workers' compensation and tort claim defense and indemnification.

(b) Individuals who volunteer to assist the state during an emergency or disaster, who register with a state agency, and who are under the direction and control of the state agency are

considered an employee of the state for purposes of workers' compensation and tort claim defense and indemnification.

Subd. 3. Governor may establish rules.

(a) The governor may establish rules in accordance with the law for the proper and efficient operation and administration of the emergency management program including methods relating to the establishment and maintenance of personnel standards on a merit basis for all employees of local emergency management agencies. However, the governor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with those methods.

(b) The governor may, by rule, cooperate with the federal government as necessary to qualify for federal aid to carry out the provisions herein expressed. The governor may, by rule, also cooperate with other political units or subdivisions in establishing and maintaining personnel standards on a merit basis.

Subd. 4. Other law preserved. Nothing in this chapter shall be construed to remove any immunity from, defense to, or limitation on liability provided by the Minnesota Tort Claims Act, the Municipal Tort Claims Act, or other law.

12.221 Minnesota natural disaster assistance.

Subd. 1. Disaster assistance agreement. The Division of Emergency Management may enter into an agreement with the Federal Emergency Management Agency (FEMA) for the maintenance of the Minnesota natural disaster assistance program and for administration of federal disaster assistance programs as provided for under provisions of federal law and regulation.

Subd. 2. Federal assistance for program. Under the agreement, the Federal Emergency Management Agency will provide \$50,000 in federal funds annually toward the cost incurred by implementation of the natural disaster assistance program. The Division of Emergency

Management shall provide two planners and the necessary equipment and facilities for project operations.

Subd. 3. Governor's authorized representative. The state director may serve as the governor's authorized representative. As such, the state director may apply for and enter into an agreement with any federal agency to accept and administer federal financial assistance made available to the state as a result of a disaster declaration. Federal money received is appropriated to the state director, who shall report its expenditure to the chairs of the house of representatives Ways and Means Committee and the appropriate senate finance committee.

Subd. 4. Subgrant agreements. The state director, serving as the governor's authorized representative, may enter into subgrant agreements with eligible applicants to provide federal and state financial assistance made available as a result of a disaster declaration.

12.23 Facilities, utilization.

In carrying out the provisions of this chapter, the governor and the governing bodies of the political subdivisions of the state shall utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and of the political subdivisions of the state to the maximum extent practicable. The officers and personnel of the departments, offices, and agencies shall cooperate with and extend services and facilities to the governor and to the emergency management organizations of the state upon request.

12.24 Regional disaster offices.

Subd. 1. Authorization. The state director may create and establish such number of regional disaster offices as may be necessary to provide both administrative assistance and operational support following a disaster, and with due consideration of the plans of the federal government and of other states. The director shall designate staff for each regional disaster office who shall have primary responsibility for the organization, administration, and operation of the office.

Subd. 2. Personnel training, expenses. When the state director considers it necessary to send (1) an employee of the Division of Emergency Management or any other individual, whether or not that individual is a state employee, to a school, training or indoctrination program, or place for training or indoctrination in matter legitimately connected with emergency management, or (2) any individual, whether or not a state employee, to any place in this or another state for any purpose connected with emergency management, the state director may authorize the payment of travel expenses and reasonable subsistence for the period that the employee or other individual is required to remain at the place. These payments must be made from money appropriated to the department. Upon certification by the state director of the purpose and amount of the payment, the commissioner of finance shall pay the amount so certified. The stipulations in this section are subject to section 43A.18. The state director may devise and formulate a procedure for the processing and certification of travel and subsistence expenses that allows the employee or other individual to submit monthly statements of expenses incurred during the preceding month.

12.25 Local organizations; directors, duties.

Subd. 1. Political subdivisions; director, responsibilities. Each political subdivision shall establish a local organization for emergency management in accordance with the state emergency management program, but no town shall establish a local organization for emergency management without approval of the state director. Each local organization for emergency management must have a director appointed forthwith: in a city by the mayor, in a town by the town board, and for a public corporation organized and existing under sections 473.601 to 473.679 by its governing body. The local director is directly responsible for the organization, administration, and operation of the local organization for emergency management, subject to the direction and control of the local governing body.

Subd. 2. Counties; director, responsibilities.
(a) Each county emergency management organization must have a director and one or more deputy directors. They must be appointed by the county board.

(b) A county organization for emergency management has jurisdiction throughout the county outside of a city or of a town that has a local emergency management organization.

(c) In addition to the other powers granted by this subdivision, county organizations shall:

- (1) coordinate the activities of and may assist in the training of emergency management organizations of political subdivisions throughout the county;
- (2) plan for the emergency operations of county government in cooperation with the county attorney, who shall give legal advice to the county organization, and with other appropriate county government officials and private sector representatives;
- (3) acquire equipment necessary in connection with these activities; and
- (4) expend funds provided by the county board out of general revenue funds for such purposes.

Subd. 3. Territorial limits. Each local and county organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized and, in addition, shall conduct these functions outside of its territorial limits as may be required pursuant to sections 12.23, 12.27, and 12.32 or any other applicable law.

Subd. 5. Common organization agreements. With approval of the state director, two or more political subdivisions may enter into agreements determining the boundaries of the geographic areas of their respective emergency management responsibilities or providing for a common emergency management organization, which for the purposes of this chapter must be a local emergency management organization.

12.26 Political subdivisions; taxation, appropriations.

Subd. 1. Appropriation for expenses. Each political subdivision may make appropriations in the manner provided by law for making appropriations for the ordinary expenses of the political subdivision for the payment of expenses of its local organizations for emergency management, and any local contingent of the civil air patrol.

Subd. 2. Power to tax, emergency management expenditures. To provide money for the emergency management purposes authorized by this chapter, a political subdivision may levy annually upon all taxable property in the political subdivision, except as provided in subdivision 4, a tax in excess of and over and above all taxing limitations in an amount as may be necessary to pay expenditures incurred for emergency management purposes.

Subd. 3. Power to tax, organizational equipment.

(a) To provide money to purchase organizational equipment that is to be paid for in part by the federal government, a political subdivision may levy a tax upon all taxable property in the political subdivision, except as provided in subdivision 4, in excess of and over and above all taxing limitations, including those provided in subdivision 2, in an amount as may be necessary to pay its share of the cost of the organizational equipment, provided that the governor has approved the purchase.

(b) Each political subdivision that has initiated the purchase of organizational equipment may:

- (1) pay into the state treasury, in trust, its share of the cost of organizational equipment required by the federal government to be paid in advance;
- (2) pay into the state treasury, in trust, its share of the reimbursement of the federal government by the state as part of its share of the cost of organizational equipment purchased for the political subdivision and initially wholly paid for from the federal treasury;

(3) pay the entire cost of organizational equipment from funds derived from tax levies authorized by this section, but within the limitations of subdivision 2. Organizational equipment purchased entirely from funds of a political subdivision need not be in excess of equipment provided for normal operation of a political subdivision and may be of a type and kind usable for both local and emergency management purposes.

Subd. 4. Power to tax by county. When levied by a county, the taxes authorized in subdivisions 2 and 3, respectively, must be spread wholly and exclusively upon property within the portion of the county over which the county local organization for emergency management has jurisdiction as provided in section 12.25, subdivision 1; provided, however, that a county may levy annually a tax upon all taxable property within any city or town within the county that has a local emergency management organization.

Subd. 6. Minneapolis, exception. Notwithstanding the limitation contained in subdivision 2, the limitation applicable to the city of Minneapolis continues at 20 cents per capita, and no levy may be made by Hennepin County on property within the city of Minneapolis pursuant to subdivision 4.

12.27 Mutual aid, arrangements.

Subd. 1. Authority; organizations in Minnesota. The director of each local organization for emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in an emergency or disaster too great to be dealt with unassisted. These arrangements must be consistent with the local emergency operations plan and, in time of emergency, each local organization for emergency management and its members shall render assistance in accordance with the provisions of the mutual aid arrangements.

Subd. 2. Authority; organizations in other states. The state director or the director of each local organization for emergency management may, subject to the approval of the governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted.

Subd. 2a. Authority; organizations in Canadian provinces. Subject to the approval of the governor, the state director may enter into mutual aid agreements with emergency management agencies or organizations in Canadian provinces for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted.

Subd. 3. Local delegation of authority. (a) No later than 90 days after August 1, 1996, the governing body of a political subdivision shall designate a city administrator or manager, public safety director, police chief, fire chief, public works director, or other officer who, exercising discretion and considering the needs of the political subdivision and its inhabitants, may dispatch equipment and personnel as considered necessary if a danger of fire, hazard, casualty, or another similar occurrence exists outside the political subdivision and by its suddenness it would be impractical for the governing body itself to authorize the dispatch of equipment and personnel to combat that emergency or disaster.

(b) Action under this subdivision is an act of the political subdivision. All provisions for compensation of personnel, rental of equipment, liability insurance coverage, workers' compensation insurance, and other matters pertaining to the political subdivision, its equipment, and personnel, apply in each case as if specifically authorized and directed.

(c) The officer shall end the use of equipment and personnel when the need no longer exists or earlier at the officer's discretion if it appears to be in the best interest of the political subdivision.

Subd. 4. Providing assistance to another state. At the request of another state, the governor, exercising discretion and considering the needs of this state and its inhabitants, may dispatch state equipment and personnel as deemed necessary if there is an emergency or disaster outside of this state. The governor shall end the use of equipment and personnel when the need no longer exists or earlier at the governor's discretion if it appears to be in the best interest of the state.

12.28 Governor's orders, rules; enforcement.

Every organization for emergency management established pursuant to this chapter and its officers shall execute and enforce orders and rules as may be made by the governor under authority of this chapter or section 216C.15. Each organization must have available for inspection at its office all orders and rules made by the governor, or under the governor's authority.

12.29 Declaration of local emergency.

Subd. 1. Authority to declare emergency. A local emergency may be declared only by the mayor of a municipality or the chair of a county board of commissioners or their legal successors. It may not be continued for a period in excess of three days except by or with the consent of the governing body of the political subdivision. Any order or proclamation declaring, continuing, or terminating a local emergency must be given prompt and general publicity and filed promptly by the chief of the local record-keeping agency of the political subdivision.

Subd. 2. Effect of declaration of emergency. A declaration of a local emergency invokes necessary portions of the response and recovery aspects of applicable local or interjurisdictional disaster plans, and may authorize aid and assistance under those plans.

Subd. 3. Interjurisdictional agencies. No interjurisdictional agency or official may declare a local emergency unless expressly authorized

by the agreement under which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

12.301 Community disaster loans; governor's authority.

Whenever, at the request of the governor, the president has declared a major disaster to exist in this state, the governor is authorized to take the following actions:

(a) Upon the governor's determination that a political subdivision of the state will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, the governor may apply to the federal government, on behalf of the political subdivision, for a loan, and receive and disburse the proceeds of the approved loan to the applicant political subdivision.

(b) The governor may determine the amount needed by an applicant political subdivision to restore or resume its governmental functions, and certify that amount to the federal government. No application amount may exceed 25 percent of the annual operating budget of the applicant for the fiscal year in which the major disaster occurs.

(c) The governor may recommend to the federal government, based upon the governor's review, the cancellation of all or any part of repayment when, in the first three full fiscal year period following the major disaster, the revenues of the political subdivision are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character.

12.31 National security or peacetime emergency; declaration.

Subd. 1. Declaration of national security emergency. When information from the President of the United States, the Federal Emergency Management Agency, the Department of Defense, or the National Warning System indicates the imminence of a national

* Underlined language was added in 2005.

security emergency within the United States, which means the several states, the District of Columbia, and the Commonwealth of Puerto Rico, or the occurrence within the state of Minnesota of a major disaster from enemy sabotage or other hostile action, the governor may, by proclamation, declare that a national security emergency exists in all or any part of the state. If the legislature is then in regular session or, if it is not, if the governor concurrently with the proclamation declaring the emergency issues a call convening immediately both houses of the legislature, the governor may exercise for a period not to exceed 30 days the powers and duties conferred and imposed by sections 12.31 to 12.37 and 12.381. The lapse of these emergency powers does not, as regards any act occurring or committed within the 30-day period, deprive any person, political subdivision, municipal corporation, or body politic of any right to compensation or reimbursement that it may have under this chapter.

Subd. 2. Declaration of peacetime emergency.

(a) The governor may declare a peacetime emergency. A peacetime declaration of emergency may be declared only when an act of nature, a technological failure or malfunction, a terrorist incident, an industrial accident, a hazardous materials accident, or a civil disturbance endangers life and property and local government resources are inadequate to handle the situation. If the peacetime emergency occurs on Indian lands, the governor or state director of emergency management shall consult with tribal authorities before the governor makes such a declaration. Nothing in this section shall be construed to limit the governor's authority to act without such consultation when the situation class for prompt and timely action. When the governor declares a peacetime emergency, the governor must immediately notify the majority and minority leaders of the senate and the speaker and majority and minority leaders of the house of representatives. A peacetime emergency must not be continued for more than five days unless extended by resolution of the Executive Council up to 30 days. An order, or proclamation

declaring, continuing, or terminating an emergency must be given prompt and general publicity and filed with the secretary of state.

(b) By majority vote of each house of the legislature, the legislature may terminate a peacetime emergency extending beyond 30 days. If the governor determines a need to extend the peacetime emergency declaration beyond 30 days and the legislature is not sitting in session, the governor must issue a call immediately convening both houses of the legislature. Nothing in this section limits the governor's authority over or command of the National Guard as described in the Military Code, chapters 190 to 192A, and required by the Minnesota Constitution, article V, section 3.

Subd. 3. Effect of declaration of peacetime emergency. A declaration of a peacetime emergency in accordance with this section authorizes the governor to exercise for a period not to exceed the time specified in this section the powers and duties conferred and imposed by this chapter for a peacetime emergency and invokes the necessary portions of the state emergency operations plan developed pursuant to section 12.21, subdivision 3, relating to response and recovery aspects and may authorize aid and assistance under the plan.

12.311 [Expires 8/1/05.]

12.312 [Expires 8/1/05.]

12.32 Governor's orders and rules, effect.

Orders and rules promulgated by the governor under authority of section 12.21, subdivision 3, clause (1), when approved by the Executive Council and filed in the Office of the Secretary of State, have, during a national security emergency, peacetime emergency or energy supply emergency, the full force and effect of law. Rules and ordinances of any agency or political subdivision of the state inconsistent with the provisions of this chapter or with any order or rule having the force and effect of law issued under the authority of this chapter, is suspended during the period of time and to the extent that the emergency exists.

12.33 Assistance between political subdivisions.

Subd. 1. Authority of governor. When the public interest requires it because of an imminent emergency, the governor may authorize and direct the police, fire-fighting, health, or other force of a political subdivision, called the sending political subdivision, to go to the assistance of another political subdivision, called the receiving political subdivision, and to take and use the personnel, equipment, and supplies of the sending political subdivision as the governor may direct.

Subd. 2. Effect. While engaged in the activities described in subdivision 1, the officers and members of those forces have the same powers, duties, rights, privileges, and immunities as if they were performing like service in the sending political subdivision and are considered to be acting within the scope of and in the course of their regular employment, as employees of the sending political subdivision.

Subd. 3. Reimbursement by local government receiving assistance. The receiving political subdivision shall reimburse the sending political subdivision for the supplies used and the compensation paid to the officers and members of the forces furnished, during such time as the rendition of aid prevents them from performing their duties in the sending political subdivision, for the actual traveling and maintenance expenses of the officers and members while so engaged. A claim for loss, damage, or expense in using equipment or supplies or for additional expenses incurred in operating or maintaining them must not be allowed unless within 90 days after the loss, damage, or expense is sustained or incurred an itemized notice of it, verified by an officer or employee of the municipality having knowledge of the facts, is filed with the clerk of the receiving political subdivision.

Subd. 4. Reimbursement by state. It is the policy of the state to reimburse the sending political subdivision for loss or damage to

equipment used outside of the corporate limits of the sending political subdivision and to reimburse the sending political subdivision for additional expenses incurred in operating and maintaining the equipment outside of its corporate limits. A claim for loss, damage, or expense in using equipment or for additional expenses incurred in operating or maintaining the equipment must not be allowed unless within 90 days after it is sustained or incurred an itemized notice of the claim, verified by an officer or employee of the sending political subdivision having knowledge of the facts, is filed with the state director.

12.331 Local assistance between political subdivisions.

Subd. 1. Authority between political subdivisions. When the public interest requires it because of an emergency, a political subdivision may request the assistance of another political subdivision. Upon receiving such a request, a political subdivision, called the "sending political subdivision," may go to the assistance of the requesting political subdivision, called the "receiving political subdivision." The receiving political subdivision may accept and use the personnel, equipment, and supplies of the sending political subdivision as agreed upon by both political subdivisions.

Subd. 2. Effect.

(a) Unless there is a written agreement between the political subdivisions establishing the rules for conducting these activities, the provisions of paragraphs (b) to (e) shall apply while the political subdivisions are engaged in the activities described in subdivision 1.

(b) For the purposes of worker's compensation insurance, the employees, officers, and members of the sending political subdivision have the same powers, duties, rights, privileges, and immunities as if they were performing similar services in the sending political subdivision and are considered to be acting within the scope of and in the course of their regular employment, as employees of the sending political subdivision.

(c) For the purposes of chapter 466, the employees and officers of the sending political

subdivision are deemed to be employees, as defined in section 466.01, subdivision 6, of the receiving political subdivision.

(d) The sending political subdivision shall be responsible for any damages to its equipment.

(e) The receiving political subdivision shall reimburse the sending political subdivision for the supplies used and the compensation paid to the officers and members of the forces furnished, during the time when the rendition of aid prevents them from performing their duties in the sending political subdivision, and for the actual travel and maintenance expenses of the officers and members while so engaged. A claim for loss, damage, or expense in using equipment or supplies or for additional expenses incurred in operating or maintaining them must not be allowed unless within 90 days after the loss, damage, or expense is sustained or incurred, an itemized notice of it, verified by an officer or employee of the municipality having knowledge of the facts, is filed with the clerk of the receiving political subdivision.

Subd. 3. Retroactive effect. Notwithstanding other laws this section is effective retroactive to March 29, 1998.

12.34 Assistance required; compensation for property taken; penalty.

Subd. 1. Emergency powers. When necessary to save life, property, or the environment during a national security emergency or during a peacetime emergency, the governor, the state director, or a member of a class of members of a state or local emergency management organization designated by the governor, may:

- (1) require any person, except members of the federal or state military forces and officers of the state or a political subdivision, to perform services for emergency management purposes as directed by any of the persons described above; and
- (2) commandeer, for emergency management purposes as directed by any of the persons described above, any motor vehicles, tools, appliances, medical supplies, or other personal property and any facilities.

Subd. 2. Compensation. The owner of commandeered property must be promptly paid just compensation for its use and all damages done to the property while so used for emergency management purposes. The governor or the governing body of the political subdivision concerned, respectively, according to the use of the property, shall make a formal order determining the amount of compensation. The owner may appeal to the district court of the county in which the property was commandeered if, within 30 days from the date of the order, the owner serves upon the governor or the political subdivision concerned and files with the court administrator of the district court a written notice of appeal setting forth the order appealed from and, in detail, the amount claimed as compensation. Upon appeal, the issue is the amount of damages to which the appellant is entitled. It may be noticed for trial as in the case of a civil action and the court may require other parties to be joined and to plead when necessary to a proper determination of the questions involved. The cause must be tried without a jury de novo and the court shall determine the damages and the person or persons entitled to them. Except as herein otherwise provided, the trial must be conducted and the cause disposed of according to the rules applicable to civil actions in the district court. The court in its discretion may award to the prevailing party the costs and disbursements of the appeal.

Subd. 3. Penalty. An able-bodied person required to perform services for emergency management who refuses, neglects, or otherwise fails to perform the services required under subdivision 1 is guilty of a misdemeanor and must be punished by imprisonment in the county jail for not less than ten days or more than 90 days.

12.35 Activating emergency response personnel.

Subd. 2. Personnel rights, duties, privileges. Emergency response personnel, while activated by the state, are considered state employees and have the powers, duties, rights, privileges, and immunities provided by law for the employees of this state.

Subd. 3. Local government reimbursement; emergency response. The state shall reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of employees of the political subdivision while they are activated by the state director as emergency response personnel. Reimbursement must also be provided for all payments for death, disability, or injury in the course of duty, and for all losses of or damage to supplies and equipment of the political subdivision resulting from the operations of the emergency response personnel.

Subd. 3a. Local government reimbursement; training. The state shall also reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of employees of the political subdivision while they are activated by the state director in order to participate in specifically authorized training and exercises.

Subd. 4. Reimbursement of other state. When emergency management personnel of another state render aid in Minnesota pursuant to the orders of the governor of its home state, and upon the request of the governor of Minnesota, this state shall reimburse the other state for (1) the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of the personnel of the other state while rendering aid as emergency management personnel, (2) all payments for death, disability, or injury of those personnel incurred in the course of rendering that aid, and (3) all losses of or damage to supplies and equipment of the other state, or a governmental subdivision of the other state, resulting from the rendering of aid; provided, that the laws of the other state contain provisions substantially similar to this section.

12.36 Governor's powers to fast provide emergency aid.

(a) The governor, during an emergency or disaster and notwithstanding any other law, may:

- (1) enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and the safety of property and by

- providing emergency assistance to the victims of the disaster; and
- (2) exercise the powers vested by this subdivision in the light of the exigencies of the disaster without compliance with time-consuming procedures and formalities prescribed by law pertaining to:
 - (i) the performance of public work;
 - (ii) entering into contract;
 - (iii) incurring of obligations;
 - (iv) employment of temporary workers;
 - (v) rental of equipment;
 - (vi) purchase of supplies and materials, for example, but not limited to, publication of calls for bids;
 - (vii) provisions of the Civil Service Act and rules;
 - (viii) provisions relating to low bids; and
 - (ix) requirements for the budgeting and allotment of funds.

(b) All contracts must be in writing, executed on behalf of the state by the governor or a person delegated by the governor in writing so to do, and must be promptly filed with the commissioner of finance, who shall forthwith encumber funds appropriated for the purposes of the contract for the full contract liability and certify thereon that the encumbrance has been made.

12.37 Political subdivision's powers to fast provide emergency aid.

During an emergency or disaster, each political subdivision, notwithstanding any statutory or charter provision to the contrary, and through its governing body acting within or without the corporate limits of the political subdivision, may:

- (1) enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and by providing emergency assistance to the victims of the disaster; and
- (2) exercise the powers vested by this subdivision in the light of the exigencies of the disaster without compliance with

time-consuming procedures and formalities prescribed by law pertaining to:

- (i) the performance of public work;
- (ii) entering into contracts;
- (iii) incurring of obligations;
- (iv) employment of temporary workers;
- (v) rental of equipment;
- (vi) purchase of supplies and materials;
- (vii) limitations upon tax levies; and
- (viii) the appropriation and expenditure of public funds, for example, but not limited to, publication of ordinances and resolutions, publication of calls for bids, provisions of civil service laws and rules, provisions relating to low bids, and requirements for budgets.

12.38 State agencies; temporary waiver of fees.

Notwithstanding any law to the contrary, a state agency as defined in section 16B.01, subdivision 2, with the approval of the governor, may waive fees that would otherwise be charged for agency services. The waiver of fees must be confined to geographic areas within a presidentially declared disaster area, and to the minimum periods of time necessary to deal with the emergency situation. The requirements of section 14.05, subdivision 4, do not apply to a waiver made under this section. The agency must promptly report the reasons for and the impact of any suspended fees to the chairs of the legislative committees that oversee the policy and budgetary affairs of the agency.

12.381 Safe disposition of dead human bodies.

Subd. 1. Powers for safe disposition. Notwithstanding chapter 149A and Minnesota Rules, chapter 4610, in connection with deaths related to a declared emergency, the governor may:

- (1) direct measures to provide for the safe disposition of dead human bodies as may be reasonable and necessary for emergency response. Measures may include, but are not limited to, transportation, preparation, temporary mass burial and other interment,

disinterment, and cremation of dead human bodies. Insofar as the emergency circumstances allow, the governor shall respect the religious rites, cultural customs, family wishes, and predeath directives of a decedent concerning final disposition. The governor may limit visitations or funeral ceremonies based on public health risks;

- (2) consult with coroners and medical examiners, take possession or control of any dead human body, and order an autopsy of the body; and
- (3) request any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, or otherwise provide for disposition of a dead human body under the laws of this state to accept any dead human body or provide the use of its business or facility if the actions are reasonable and necessary for emergency management purposes and are within the safety precaution capabilities of the business or facility.

Subd. 2. Identification of bodies; data classification.

(a) A person in charge of the body of a person believed to have died due to a declared emergency shall maintain a written record of the body and all available information to identify the decedent, the circumstances of death, and disposition of the body. If a body cannot be identified, a qualified person shall, prior to disposition and to the extent possible, take fingerprints and one or more photographs of the remains and collect a DNA specimen from the body.

(b) All information gathered under this subdivision, other than data required for a death certificate under Minnesota Rules, part 4601.2550, shall be death investigation data and shall be classified as nonpublic data according to section 13.02, subdivision 9, or as private data on decedents according to section 13.10, subdivision 1. Death investigation data are not medical examiner data as defined in section 13.83. Data gathered under this subdivision shall be promptly forwarded to the commissioner of health. The commissioner may

only disclose death investigation data to the extent necessary to assist relatives in identifying decedents or for public health or public safety investigations.

12.39 Individual testing or treatment; notice, refusal, consequence.

Subd. 1. Refusal of treatment. Notwithstanding laws, rules, or orders made or promulgated in response to a national security emergency or peacetime emergency, individuals have a fundamental right to refuse medical treatment, testing, physical or mental examination, vaccination, participation in experimental procedures and protocols, collection of specimens, and preventive treatment programs. An individual who has been directed by the commissioner of health to submit to medical procedures and protocols because the individual is infected with or reasonably believed by the commissioner of health to be infected with or exposed to a toxic agent that can be transferred to another individual or a communicable disease, and the agent or communicable disease is the basis for which the national security emergency or peacetime emergency was declared, and who refuses to submit to them may be ordered by the commissioner to be placed in isolation or quarantine according to parameters set forth in sections 144.419 and 144.4195.

Subd. 2. Information given. Before performing examinations, testing, treatment, or vaccination of an individual under subdivision 1, a health care provider shall notify the individual of the right to refuse the examination, testing, treatment, or vaccination, and the consequences, including isolation or quarantine, upon refusal.

12.42 Out-of-state license holders; powers, duties.

During a declared emergency, a person who holds a license, certificate, or other permit issued by a state of the United States, the District of Columbia, or a province of Canada evidencing the meeting of qualifications for professional, mechanical, or other skills, may render aid involving those skills in this state when such aid is requested by the governor to meet the needs of the emergency. The license, certificate, or other

permit of the person, while rendering aid, has the same force and effect as if issued in this state, subject to such limitations and conditions as the governor may prescribe.

12.43 Subversives; hiring, using; oath.

No person may be employed or associated in any capacity in an emergency management organization established under this chapter who advocates or has advocated a change by force or violence in the constitutional form of the Government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for emergency management shall, before entering upon any duties, take an oath, in writing, before a person authorized to administer oaths in this state, which must be substantially as follows:

"I,, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States or of this state by force or violence; and that during such time as I am a member of the (name of emergency management organization), I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States, or of this state, by force or violence."

12.44 Political activities.

No organization for emergency management established under the authority of this chapter shall participate in any form of political activity,

* Underlined language was added in 2005.

nor be employed directly or indirectly for political purposes, nor be employed in a legitimate labor dispute.

12.45 Violations, penalties.

Unless a different penalty or punishment is specifically prescribed, a person who willfully violates a provision of this chapter or a rule or order having the force and effect of law issued under authority of this chapter is guilty of a misdemeanor and upon conviction must be punished by a fine not to exceed \$1,000, or by imprisonment for not more than 90 days.

12.46 Limitation of powers.

Nothing in this chapter authorizes the governor or the director:

- (1) by subpoena or otherwise to require any person to appear before any person or to produce any records for inspection by any person, or to examine any person under oath; and
- (2) to remove summarily from office any person, other than a person appointed under this chapter, except as now provided by law or as herein specifically authorized.

12.61 Hospital or medical transport capacities exceeded; responder liability limitation.

Subd. 1. Definitions. For purposes of this section:

- (1) “emergency plan” includes:
 - (i) any plan for managing an emergency threatening public health developed by the commissioner of health or a local public health agency;
 - (ii) any plan for managing an emergency threatening public health developed by one or more hospitals, clinics, nursing homes, or other health care facilities or providers and approved by the commissioner of health or local public health agency in consultation with emergency management officials; or
 - (iii) any provision for assistance by out-of-state responders under interstate or international compacts, including

but not limited to the Emergency Management Assistance Compact.

- (2) “regional hospital system” means all hospitals in one of the hospital bioterrorism preparedness program geographic regions of the state set forth in the most recent hospital preparedness plan available on the Department of Health Web site at www.health.state.mn.us/oep ; and
- (3) “responder” means any person or organization whether paid or volunteer that provides health care or other health-related services in an emergency including, but not limited to, physicians, physicians assistants, registered and other nurses, certified nursing assistants, or other staff within a health care provider organization, pharmacists, chiropractors, dentists, emergency medical technicians, members of a specialized medical response unit, laboratory technicians, morticians, registered first responders, mental health professionals, hospitals, nursing and boarding care facilities, home health care agencies, other long-term care providers, medical and dental clinics, and medical laboratories and including, but not limited to, ambulance service personnel and dispatch services and persons not registered as first responders but affiliated with a medical response unit and dispatched to the scene of an emergency by a public safety answering point or licensed ambulance service.

Subd. 2. Emergency Executive Order.

- (a) During a national security emergency or a peacetime emergency declared under section 12.31, the governor may issue an emergency executive order upon finding that the number of seriously ill or injured persons exceeds the emergency hospital or medical transport capacity of one or more regional hospital systems and that care for those persons has to be given in temporary care facilities.
- (b) During the effective period of the emergency executive order, a responder in any

impacted region acting consistent with emergency plans is not liable for any civil damages or administrative sanctions as a result of good-faith acts or omissions by that responder in rendering emergency care, advice, or assistance. This section does not apply in case of malfeasance in office or willful or wanton actions.

Section 13.3806, subdivision 1a was also amended to read:

1a. Death Investigation Data: Data gathered by the commissioner of health to identify the body of a person believed to have died due to a declared emergency as defined in section 12.03, subdivision 1e, the circumstances of death, and disposition of the body are classified in and may be released according to section 12.381, subdivision 2.