

HOUSE BILL NO. 311

INTRODUCED BY G. MASOLO

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A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DIVISION OF DISASTER AND EMERGENCY SERVICES TO ADOPT A UNIFORM EVACUATION ~~PLAN~~ PROCEDURE; PROVIDING FOR MATTERS TO BE INCLUDED IN THE PLAN; AMENDING SECTIONS 10-3-104 AND 10-3-105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-3-104, MCA, is amended to read:

"10-3-104. General authority of governor. (1) The governor is responsible for carrying out parts 1 through 4 of this chapter.

(2) In addition to any other powers conferred upon the governor by law, the governor may:

(a) suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or orders or rules of any state agency if the strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency or disaster;

(b) direct and compel the evacuation of all or part of the population from an emergency or disaster area within the state, in accordance with the ~~plan~~ PROCEDURE developed pursuant to 10-3-105(4)(n), if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(c) control ingress and egress to and from an incident or emergency or disaster area, the movement of persons within the area, and the occupancy of premises within the area.

(3) Under this section, the governor may issue executive orders, proclamations, and regulations and amend and rescind them. All executive orders or proclamations declaring or terminating a state of emergency or disaster must indicate the nature of the emergency or disaster, the area threatened, and the conditions that have brought about the declaration or that make possible termination of the state of emergency or disaster."

1 **Section 2.** Section 10-3-105, MCA, is amended to read:

2 **"10-3-105. Division of disaster and emergency services -- duties.** (1) A division of disaster and
3 emergency services is established in the department. The division must have an administrator and other
4 professional, technical, secretarial, and clerical employees as necessary for the performance of its
5 functions.

6 (2) The department through the division of disaster and emergency services is responsible to the
7 governor for carrying out the planning and program for disaster and emergency services of this state.

8 (3) The division shall prepare and maintain a comprehensive plan and program for disaster and
9 emergency services of this state. The plan and program must be coordinated with the disaster and
10 emergency plans and programs of the federal government, other states, political subdivisions, and Canada
11 to the fullest extent possible.

12 (4) The division shall:

13 (a) coordinate the preparation of the plan and program for disaster and emergency services with
14 the political subdivisions of this state;

15 (b) coordinate disaster and emergency prevention and preparation activities of all departments,
16 agencies, and organizations within the state;

17 (c) advise and assist the political subdivisions of this state in executing their disaster and
18 emergency services responsibilities;

19 (d) make recommendations on the formation of interjurisdictional disaster and emergency services
20 areas when individual political subdivisions are unable to fully and adequately mount an effective local
21 program because of limitations of funding, personnel, or other reasons;

22 (e) make surveys of industries, resources, and facilities within the state, both public and private,
23 as are necessary to carry out the purposes of parts 1 through 4 of this chapter;

24 (f) periodically review local and interjurisdictional plans and programs for disaster and emergency
25 services;

26 (g) develop or assist in the development of mutual aid plans and agreements between the federal
27 government, other states, and Canada and among the political subdivisions of this state;

28 (h) plan and make arrangements for the availability and use of any private facilities, services, and
29 property and, if necessary and if in fact used, provide for payment for use under terms and conditions
30 agreed upon;

1 (i) institute training and public information programs and take all other preparatory steps, including
 2 the partial or full mobilization of disaster and emergency services organizations in advance of an actual
 3 incident, emergency, or disaster, to ensure the availability of adequately trained and equipped personnel
 4 in time of an incident, emergency, or disaster;

5 (j) direct emergency response and disaster preparation activities as authorized by the governor;

6 (k) direct disaster response and recovery activities as authorized by the governor;

7 (l) prepare, for issuance by the governor, executive orders or proclamations as necessary or
 8 appropriate in coping with incidents, emergencies, and disasters;

9 (m) maintain liaison with and cooperate with disaster and emergency services agencies and
 10 organizations of the federal government, other states, and Canada in achieving any purpose of parts 1
 11 through 4 of this chapter and in implementing programs for disaster prevention, preparation, response, and
 12 recovery; ~~and~~

13 (n) develop a uniform evacuation procedure to be used in an area impacted by a disaster or
 14 emergency; and

15 ~~(n)(o)~~ assume any additional authority, duties, and responsibilities authorized by parts 1 through
 16 4 of this chapter as may be prescribed by the governor."

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18 NEW SECTION. Section 3. Uniform evacuation ~~plan~~ PROCEDURE -- contents. The uniform
 19 evacuation ~~plan~~ PROCEDURE provided for in 10-3-105(4)(n) must include but is not limited to the following:

20 (1) Personnel involved in contacting potential evacuees shall inform the potential evacuee of the
 21 need for the evacuation but may not threaten or intimidate the evacuee in order to gain compliance with
 22 an evacuation order.

23 (2) Assistance, within available resources, ~~must~~ MAY be provided to an evacuee who seeks the
 24 assistance.

25 (3) ~~A~~ AN ADULT potential evacuee informed of the need for evacuation may decide to stay on the
 26 individual's property, and the personnel informing the individual shall note that decision. A MINOR CHILD OF
 27 THE ADULT INDIVIDUAL WHO HAS DECIDED TO STAY ON THE INDIVIDUAL'S PROPERTY OR OTHER MINOR ON THAT PROPERTY
 28 MUST BE EVACUATED FROM THE PROPERTY.

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30 NEW SECTION. Section 4. Codification instruction. [Section 3] is intended to be codified as an

1 integral part of Title 10, chapter 3, part 1, and the provisions of Title 10, chapter 3, part 1, apply to
2 [section 3].

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4 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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