

HOUSE BILL NO. 6148

September 02, 2020, Introduced by Rep. O'Malley and referred to the Committee on Military, Veterans and Homeland Security.

A bill to amend 1976 PA 390, entitled "Emergency management act," by amending the title and sections 2, 7, 7a, 8, and 9 (MCL 30.402, 30.407, 30.407a, 30.408, and 30.409), the title as amended by 2006 PA 267, section 2 as amended by 1990 PA 50, and sections 7, 7a, 8, and 9 as amended by 2002 PA 132, and by adding sections 3a and 7b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to provide for planning, mitigation, response, and
3 recovery from natural and human-made disaster within and outside



1 this state; **to create the department of emergency management and to**
 2 **prescribe its powers and duties;** to create ~~the Michigan emergency~~
 3 ~~management~~ **an advisory council** ~~commission~~ and prescribe its powers
 4 and duties; to prescribe the powers and duties of certain state and
 5 local agencies and officials; to prescribe immunities and
 6 liabilities; to provide for the acceptance of gifts; **to transfer**
 7 **certain powers and duties between certain state departments;** and to
 8 repeal acts and parts of acts.

9 Sec. 2. As used in this act:

10 (a) "Chief executive official" means:

11 (i) In the case of a county with an elected county executive,
 12 the county executive.

13 (ii) In the case of a county without an elected county
 14 executive, the chairperson of the county board of commissioners, or
 15 the appointed administrator designated by appropriate enabling
 16 legislation.

17 (iii) In the case of a city, the mayor or the individual
 18 specifically identified in the municipal charter.

19 (iv) In the case of a township, the township supervisor.

20 (v) In the case of a village, the village president or the
 21 individual specifically identified in the village charter.

22 ~~(b) "Council" means the Michigan emergency management advisory~~
 23 ~~council.~~

24 (b) ~~(e)~~ "Department" means **1 of the following:**

25 (i) **Through December 31, 2021,** the department of state police.

26 (ii) **Beginning January 1, 2022, the department of emergency**
 27 **management.**

28 (c) ~~(d)~~ "Director" or "state director of emergency management"
 29 means **1 of the following:**



1 **(i) Through December 31, 2021,** the director of the department
2 of state police or his or her designee.

3 **(ii) Beginning January 1, 2022, the director of the department**
4 **of emergency management.**

5 **(d) ~~(e)~~**—"Disaster" means an occurrence or threat of widespread
6 or severe damage, injury, or loss of life or property resulting
7 from a natural or human-made cause, including, but not limited to,
8 fire, flood, snowstorm, ice storm, tornado, windstorm, wave action,
9 oil spill, water contamination, utility failure, hazardous
10 peacetime radiological incident, major transportation accident,
11 hazardous materials incident, epidemic, air contamination, blight,
12 drought, infestation, explosion, or hostile military action or
13 paramilitary action, or similar occurrences resulting from
14 terrorist activities, riots, or civil disorders.

15 **(e) ~~(f)~~**—"Disaster relief forces" means all agencies of state,
16 county, and municipal government, private and volunteer personnel,
17 public officers and employees, and all other persons or groups of
18 persons having duties or responsibilities under this act or
19 pursuant to a lawful order or directive authorized by this act.

20 **(f) ~~(g)~~**—"District coordinator" means the ~~state police~~
21 **department of** emergency management division district coordinator.

22 **(g) ~~(h)~~**—"Emergency" means any occasion or instance in which
23 the governor determines state assistance is needed to supplement
24 local efforts and capabilities to save lives, protect property and
25 the public health and safety, or to lessen or avert the threat of a
26 catastrophe in any part of the state.

27 **(h) ~~(i)~~**—"Emergency management coordinator" means a person
28 appointed ~~pursuant to~~ **under** section 9 to coordinate emergency
29 management within the county or municipality. Emergency management



1 coordinator includes a civil defense director, civil defense
 2 coordinator, emergency services coordinator, emergency program
 3 manager, or other person with a similar title and duties.

4 (i) ~~(j)~~—"Local state of emergency" means a proclamation or
 5 declaration that activates the response and recovery aspects of any
 6 and all applicable local or interjurisdictional emergency
 7 operations plans and authorizes the furnishing of aid, assistance,
 8 and directives under those plans.

9 (j) ~~(k)~~—"Michigan emergency management plan" means the plan
 10 prepared and maintained by the ~~emergency management division of the~~
 11 department and signed by the governor.

12 (k) **"Michigan emergency management transition commission" or**
 13 **"transition commission" means the Michigan emergency management**
 14 **transition commission created in section 7b.**

15 (l) "Municipality" means a city, village, or township.

16 (m) "Person" means an individual, partnership, corporation,
 17 association, governmental entity, or any other entity.

18 (n) "Political subdivision" means a county, municipality,
 19 school district, or any other governmental unit, agency, body,
 20 board, or commission which is not a state department, board,
 21 commission, or agency of state government.

22 (o) "Rule" means a rule promulgated pursuant to the
 23 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
 24 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
 25 ~~Compiled Laws.1969 PA 306, MCL 24.201 to 24.328.~~

26 (p) "State of disaster" means an executive order or
 27 proclamation that activates the disaster response and recovery
 28 aspects of the state, local, and interjurisdictional emergency
 29 operations plans applicable to the counties or municipalities



1 affected.

2 (q) "State of emergency" means an executive order or
 3 proclamation that activates the emergency response and recovery
 4 aspects of the state, local, and interjurisdictional emergency
 5 operations plans applicable to the counties or municipalities
 6 affected.

7 **Sec. 3a. (1) Beginning on January 1, 2022, the department of**
 8 **emergency management is created in the executive branch.**

9 (2) **The head of the department of emergency management is the**
 10 **director of the department of emergency management.**

11 (3) **The director of the department of emergency management**
 12 **shall be appointed by the governor and serve at the pleasure of the**
 13 **governor. The director shall have emergency management experience**
 14 **and shall be certified as a professional emergency manager by this**
 15 **state.**

16 (4) **On January 1, 2022, all powers, duties, and functions of**
 17 **the state director of emergency management in the department of**
 18 **state police under this act are transferred to the department of**
 19 **emergency management in the same manner as a type 2 transfer**
 20 **described in section 3 of the executive reorganization act of 1965,**
 21 **1965 PA 380, MCL 16.103.**

22 **Sec. 7. (1) The director shall implement the orders and**
 23 **directives of the governor in the event of a disaster or an**
 24 **emergency and shall coordinate all federal, state, county, and**
 25 **municipal disaster prevention, mitigation, relief, and recovery**
 26 **operations within this state. At the specific direction of the**
 27 **governor, the director shall assume complete command of all**
 28 **disaster relief, mitigation, and recovery forces, except the**
 29 **national guard or state defense force, if it appears that this**



1 action is absolutely necessary for an effective effort.

2 (2) If the governor has issued a proclamation, executive
3 order, or directive under section 3 regarding state of disaster or
4 state of emergency declarations, section 5 regarding actions
5 directed by the governor, or section 21 regarding heightened state
6 of alert, the director may, with the concurrence of the governor,
7 amend the proclamation or directive by adding additional counties
8 or municipalities or terminating the orders and restrictions as
9 considered necessary.

10 (3) The director shall comply with the applicable provisions
11 of the Michigan emergency management plan in the performance of the
12 director's duties under this act.

13 (4) The director's powers and duties shall include the
14 administration of state and federal disaster relief funds and
15 money; the mobilization and direction of state disaster relief
16 forces; the assignment of general missions to the national guard or
17 state defense force activated for active state duty to assist the
18 disaster relief operations; the receipt, screening, and
19 investigation of requests for assistance from county and municipal
20 governmental entities; making recommendations to the governor; and
21 other appropriate actions within the general authority of the
22 director.

23 (5) In carrying out the director's responsibilities under this
24 act, the director may plan for and utilize the assistance of any
25 volunteer group or person having a pertinent service to render.

26 (6) The director may issue a directive relieving the donor or
27 supplier of voluntary or private assistance from liability for
28 other than gross negligence in the performance of the assistance.

29 **(7) The director shall provide a copy of the Michigan**



1 **emergency management plan every 2 years to the governor, the senate**
2 **majority leader, and the speaker of the house of representatives.**

3 Sec. 7a. (1) The department shall establish an emergency
4 management division for the purpose of coordinating within this
5 state the emergency management activities of county, municipal,
6 state, and federal governments. The department shall provide the
7 division with professional and support employees as necessary for
8 the performance of its functions.

9 (2) The division shall prepare and maintain a Michigan
10 emergency management plan that is a comprehensive plan that
11 encompasses mitigation, preparedness, response, and recovery for
12 this state.

13 (3) The division shall receive available state and federal
14 emergency management and disaster related grants-in-aid and shall
15 administer and apportion the grants according to appropriately
16 established guidelines to the agencies of this state and local
17 political subdivisions. **To the greatest extent possible, federal**
18 **grants shall be distributed to counties and municipalities.**

19 (4) The division may do 1 or more of the following:

20 (a) Promulgate rules that establish standards and requirements
21 for the appointment, training, and professional development of
22 emergency management coordinators. **Beginning January 1, 2022, each**
23 **emergency management coordinator shall be certified as a**
24 **professional emergency manager by this state or actively in the**
25 **process of obtaining the certification. If the emergency management**
26 **coordinator does not have the professional emergency manager**
27 **certification within 2 years of his or her appointment, that**
28 **individual is no longer eligible to be an emergency management**
29 **coordinator.**



1 (b) Promulgate rules that establish standards and requirements
2 for local and interjurisdictional emergency management programs.

3 (c) Periodically review local and interjurisdictional
4 emergency operations plans.

5 (d) Promulgate rules that establish standards and requirements
6 for emergency training and exercising programs and public
7 information programs.

8 (e) Make surveys of industries, resources, and facilities
9 within this state, both public and private, necessary to carry out
10 the purposes of this act.

11 (f) Prepare, for issuance by the governor, executive orders,
12 proclamations, and regulations as necessary or appropriate in
13 coping with disasters and emergencies.

14 (g) Provide for 1 or more state emergency operations centers
15 to provide for the coordination of emergency response and disaster
16 recovery in this state.

17 (h) Provide for the coordination and cooperation of state
18 agencies and departments with federal and local government agencies
19 and departments in emergency management activities.

20 (i) Cooperate with the federal government and any public or
21 private agency or entity in achieving any purpose of this act and
22 in implementing programs for disaster mitigation, preparation,
23 response, and recovery.

24 (j) Propose and administer statewide mutual aid compacts and
25 agreements.

26 (k) Do other activities necessary, incidental, or appropriate
27 for the implementation of this act.

28 (5) For purposes of this section, the judicial branch of this
29 state is considered a department of state government.



1 (6) The emergency management plan must include all of the
2 following:

3 (a) An outline of a comprehensive and effective program to
4 ensure continuity of essential state functions under all
5 circumstances. The emergency management plan must identify a
6 baseline of preparedness for a full range of potential emergencies
7 to establish a viable capability to perform essential functions
8 during any emergency or other situation that disrupts normal
9 operations.

10 (b) At a minimum, all of the following elements:

11 (i) Identification of essential functions, programs, and
12 personnel.

13 (ii) Procedures to implement the emergency management plan and
14 personnel notification and accountability.

15 (iii) Delegations of authority and lines of succession.

16 (iv) Identification of alternative facilities and related
17 infrastructure, including those for communications, identification,
18 and protection of vital records and databases.

19 (v) Schedules and procedures for periodic tests, training, and
20 exercises.

21 (c) An up-to-date inventory of emergency supplies and
22 equipment maintained by the department for emergencies.

23 (7) ~~(6)~~—As used in this section, "division" means 1 of the
24 following:

25 (a) Through December 31, 2021, the emergency management
26 division of the department.

27 (b) Beginning January 1, 2022, the department.

28 Sec. 7b. (1) The emergency management transition commission is
29 created within the department on January 1, 2021.



1 (2) The transition commission shall consist of the following
2 members, appointed by the governor as follows:

3 (a) One member from a list of 2 or more individuals selected
4 by the speaker of the house of representatives.

5 (b) One member from a list of 2 or more individuals selected
6 by the senate majority leader.

7 (c) One member representing the interests of the Michigan
8 Emergency Management Association.

9 (d) One member representing the interests of the Michigan
10 National Guard.

11 (e) One member representing the interests of the department of
12 state police.

13 (f) One member representing the interests of the Michigan
14 Association of Counties.

15 (g) One member who is an emergency management coordinator
16 representing the interests of municipalities with a population of
17 25,000 or more.

18 (h) One member who is an emergency management coordinator
19 representing the interests of municipalities with a population of
20 more than 10,000 and less than 25,000.

21 (3) The members first appointed to the transition commission
22 shall be appointed within 30 days after the effective date of this
23 section. The member appointed under subsection (2)(a) shall be the
24 chairperson of the commission.

25 (4) Members of the transition commission shall serve for a
26 term of 2 years.

27 (5) If a vacancy occurs on the transition commission, the
28 governor shall make an appointment for the unexpired term in the
29 same manner as the original appointment.



1 (6) A majority of the members of the transition commission
2 constitute a quorum for the transaction of business at a meeting of
3 the transition commission. A majority of the members present and
4 serving are required for official action of the transition
5 commission.

6 (7) The business that the transition commission may perform
7 shall be conducted at a public meeting of the transition commission
8 held in compliance with the open meetings act, 1976 PA 267, MCL
9 15.261 to 15.275.

10 (8) A writing prepared, owned, used, in the possession of, or
11 retained by the transition commission in the performance of an
12 official function is subject to the freedom of information act,
13 1976 PA 442, MCL 15.231 to 15.246.

14 (9) Members of the transition commission shall serve without
15 compensation. However, members of the transition commission may be
16 reimbursed for their actual and necessary expenses incurred in the
17 performance of their official duties as members of the transition
18 commission.

19 (10) The transition commission shall do all of the following:

20 (a) Make recommendations to the governor and the director to
21 ensure an adequate transition of the department.

22 (b) Make recommendations to the legislature on any changes
23 needed in this act.

24 (c) Make recommendations to the governor and the director on
25 how federal grants and other federal funds shall be distributed
26 between this state, counties, and municipalities.

27 (d) Not less than once each year schedule a meeting of the
28 commission with the director, the governor, the speaker of the
29 house of representatives, and the senate majority leader.



1 Sec. 8. (1) The director of each department of state
2 government ~~, and those agencies of state government~~ **or state agency**
3 required by the Michigan emergency management plan to provide an
4 annex to that plan ~~,~~ shall serve as emergency management
5 coordinator for their respective departments or agencies. Each
6 director may appoint or employ a designated representative as
7 emergency management coordinator, provided that the representative
8 shall act for and at the direction of that director while
9 functioning in the capacity of emergency management coordinator
10 upon the activation of the state emergency operations center, or
11 the declaration of a state of disaster or emergency. **The director**
12 **of each department of state government or state agency shall notify**
13 **the governor and the director of the name and contact information**
14 **of each emergency management coordinator and their designee, if**
15 **any, for that department or state agency.** Each department or **state**
16 agency emergency management coordinator shall act as liaison
17 between his or her department or **state** agency and the emergency
18 management division of the department in all matters of emergency
19 management, including the activation of the Michigan emergency
20 management plan. Each department or **state** agency ~~of state~~
21 ~~government~~ specified in the Michigan emergency management plan
22 shall prepare and continuously update an annex to the plan
23 providing for the delivery of emergency management activities by
24 that **state** agency or the department. The annexes shall be in a form
25 prescribed by the director. The emergency management coordinator
26 shall represent the **state** agency or department head in the drafting
27 and updating of the respective **state** agency's or the department's
28 emergency management annex and in coordinating the **state** agency's
29 or department's emergency management efforts with those of the



1 other state agencies as well as with county and municipal
2 governments.

3 (2) Upon the declaration of a state of disaster or a state of
4 emergency by the governor, each state agency shall cooperate to the
5 fullest possible extent with the director in the performance of the
6 services that it is suited to perform, and as described in the
7 Michigan emergency management plan, in the prevention ~~—or~~
8 mitigation **of**, response to, or recovery from the disaster or
9 emergency. For purposes of this section, the judicial branch of
10 this state is considered a department of state government and the
11 chief justice of the Michigan supreme court is considered the
12 director of that department.

13 Sec. 9. (1) The county board of commissioners of each county
14 shall appoint an emergency management coordinator. ~~In the absence~~
15 ~~of an appointed person, the emergency management coordinator shall~~
16 ~~be the chairperson of the county board of commissioners.~~The
17 emergency management coordinator shall act for, and at the
18 direction of, the chairperson of the county board of commissioners
19 in the coordination of all matters pertaining to emergency
20 management in the county, including mitigation, preparedness,
21 response, and recovery. In counties with an elected county
22 executive, the county emergency management coordinator ~~may act for~~
23 ~~and~~ **shall act** at the direction of the county executive. Pursuant to
24 a resolution adopted by a county, the county boards of
25 commissioners of not more than 3 adjoining counties may agree upon
26 and appoint a coordinator to act for the multicounty area.

27 (2) A municipality with a population of 25,000 or more shall
28 either appoint a municipal emergency management coordinator or
29 appoint the coordinator of the county as the municipal emergency



1 management coordinator ~~pursuant to~~**under** subsection (7). In the
 2 absence of an appointed person, the emergency management
 3 coordinator shall be the chief executive official of that
 4 municipality. The coordinator of a municipality shall be appointed
 5 by the chief executive official in a manner provided in the
 6 municipal charter. The coordinator of a municipality with a
 7 population of 25,000 or more shall act for and at the direction of
 8 the chief executive official of the municipality or the official
 9 designated in the municipal charter in the coordination of all
 10 matters pertaining to emergency management, disaster preparedness,
 11 and recovery assistance within the municipality.

12 (3) A municipality with a population of 10,000 or more may
 13 appoint an emergency management coordinator for the municipality.
 14 The coordinator of a municipality shall be appointed by the chief
 15 executive official in a manner provided in the municipal charter.
 16 The coordinator of a municipality with a population of 10,000 or
 17 more shall act for and at the direction of the chief executive
 18 official or the official designated by the municipal charter in the
 19 coordination of all matters pertaining to emergency management,
 20 disaster preparedness, and recovery assistance within the
 21 municipality.

22 (4) A municipality ~~having~~**with** a population of less than
 23 10,000 may appoint an emergency management coordinator who shall
 24 serve at the direction of the county emergency management
 25 coordinator.

26 (5) A public college or university with a combined average
 27 population of faculty, students, and staff of 25,000 or more,
 28 including its satellite campuses within this state, shall appoint
 29 an emergency management coordinator for the public college or



1 university. ~~Public colleges~~ **A public college** or ~~universities~~
 2 **university** with a combined average population of faculty, students,
 3 and staff of 10,000 or more, including its satellite campuses
 4 within this state, may appoint an emergency management coordinator
 5 for the public college or university.

6 (6) ~~A~~ **Except as otherwise provided in subsection (8),** a person
 7 is not ineligible for appointment as an emergency management
 8 coordinator, or as a member of a county or municipal emergency
 9 services or emergency management agency or organization, because
 10 that person holds another public office or trust, and that person
 11 shall not forfeit the right to a public office or trust by reason
 12 of his or her appointment as an emergency management coordinator.

13 (7) A county coordinator may be appointed a municipal
 14 coordinator for any municipality within the county and a municipal
 15 coordinator may be appointed a county coordinator.

16 (8) **Beginning January 1, 2022, an emergency management**
 17 **coordinator shall not be a state or county elected official.**

18 (9) **Beginning January 1, 2022, an emergency management**
 19 **coordinator is subject to the requirements of section 7a(4)(a).**

