

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1104

Introduced by Day, 49.

Read first time January 19, 2022

Committee: Government, Military and Veterans Affairs

- 1 A BILL FOR AN ACT relating to the Emergency Management Act; to amend
- 2 sections 81-829.39 and 81-829.41, Reissue Revised Statutes of
- 3 Nebraska; to define terms; to change duties of the Nebraska
- 4 Emergency Management Agency; to harmonize provisions; and to repeal
- 5 the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-829.39, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 81-829.39 For purposes of the Emergency Management Act, unless the
4 context otherwise requires:

5 (1) Civil defense emergency means an emergency declared by the
6 President of the United States or Congress pursuant to applicable federal
7 law finding that an attack upon the United States has occurred or is
8 anticipated and that the national safety therefor requires the invocation
9 of the emergency authority provided for by federal law. Civil defense
10 emergency also means an enemy attack or other hostile action within the
11 State of Nebraska or a determination by the President of the United
12 States that any attack has been made upon or is anticipated within a
13 designated geographic area which includes all or a part of the State of
14 Nebraska. Any such emergency shall terminate in the manner provided by
15 federal law or by proclamation of the Governor or resolution of the
16 Legislature terminating such emergency;

17 (2) Disability has the same meaning as in 42 U.S.C. 12102, as such
18 section existed on January 1, 2022;

19 (3) ~~(2)~~ Disaster means any event or the imminent threat thereof
20 causing widespread or severe damage, injury, or loss of life or property
21 resulting from any natural or manmade cause;

22 (4) ~~(3)~~ Emergency means any event or the imminent threat thereof
23 causing serious damage, injury, or loss of life or property resulting
24 from any natural or manmade cause which, in the determination of the
25 Governor or the principal executive officer of a local government,
26 requires immediate action to accomplish the purposes of the Emergency
27 Management Act and to effectively respond to the event or threat of the
28 event;

29 (5) ~~(4)~~ Emergency management means the preparation for and the
30 carrying out of all emergency functions, other than functions for which
31 military forces are primarily responsible, to mitigate, prevent,

1 minimize, respond to, and recover from injury and damage resulting from
2 disasters, emergencies, or civil defense emergencies. Emergency
3 management functions include, but need not be limited to, firefighting
4 services, police services, medical and health services, search and rescue
5 services, engineering services, communications and warning systems,
6 radiological preparedness, hazardous materials response, evacuation of
7 persons from stricken areas, emergency welfare services, emergency
8 transportation services, restoration of public utility services, and
9 other functions related to civilian protection, together with all other
10 activities necessary or incidental to the preparation for and carrying
11 out of the functions listed in this subdivision;

12 (6) ~~(5)~~ Emergency management worker includes any full-time or part-
13 time paid, volunteer, or auxiliary employee of this state or other
14 states, territories, or possessions of the federal government or any
15 neighboring country or of any political subdivision thereof, of the
16 District of Columbia, or of any agency or organization performing
17 emergency management services at any place in this state subject to the
18 order or control of or pursuant to a request of the state government or
19 any political subdivision thereof and also includes instructors and
20 students in emergency management educational programs approved by the
21 Nebraska Emergency Management Agency or otherwise under the provisions of
22 the Emergency Management Act;

23 (7) Functional needs means additional needs before, during, and
24 after a disaster or an emergency in one or more functional areas,
25 including, but not limited to, maintaining independence, communication,
26 transportation, safety, support, and health care;

27 (8) ~~(6)~~ Hazard mitigation means measures which will eliminate or
28 reduce the potential for damage to an area or facility from the effects
29 of a future disaster, emergency, or civil defense emergency;

30 (9) ~~(7)~~ Local government means a county, village, or city of any
31 class;

1 ~~(10)~~ ~~(8)~~ Political subdivision means a city, village, county, school
2 district, public power district, natural resources district, and any
3 other unit of government below the state level, including any entity
4 created pursuant to the Interlocal Cooperation Act or the Joint Public
5 Agency Act;

6 ~~(11)~~ ~~(9)~~ Principal executive officer means the mayor in a city of
7 any class or the elected chairperson of the governing body of a village
8 or county;

9 ~~(12)~~ ~~(10)~~ State emergency response team means an organization for
10 emergency management established in accordance with the provisions of
11 sections 81-829.52 to 81-829.54 by state authority to supplement city,
12 village, county, or interjurisdictional emergency management
13 organizations in a stricken area; and

14 ~~(13)~~ ~~(11)~~ Technological hazard means a hazard emanating from the
15 manufacture, transportation, and use of such substances as radioactive
16 materials, chemicals, explosives, flammables, agricultural pesticides,
17 herbicides, disease agents, oil spills, and debris from space.

18 Sec. 2. Section 81-829.41, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-829.41 (1) The Nebraska Emergency Management Agency shall be
21 maintained in the office of the Adjutant General. The Adjutant General
22 shall be the director of the agency, shall administer the Emergency
23 Management Act subject to the direction and control of the Governor, and
24 shall receive such compensation for these services as shall be determined
25 by the Governor. The agency shall have an assistant director and such
26 other professional, technical, secretarial, and clerical employees as are
27 necessary for the performance of its functions.

28 (2) The agency shall maintain an emergency operations plan and keep
29 it current. The plan may include, but need not be limited to:

30 (a) A history of Nebraska disasters, emergencies, and civil defense
31 emergencies;

1 (b) An analysis of past and potential disasters, emergencies, and
2 civil defense emergencies, including an identification of the functions
3 and resources required to cope with such occurrences. The expected
4 frequency of occurrence, along with the severity of effect, shall
5 indicate the priority of preparedness efforts of the emergency management
6 organizations of the state;

7 (c) Measures to be undertaken to accomplish damage assessment and
8 situation analysis, warning, direction and control, coordination of
9 operating forces, emergency resource management, emergency information
10 and official instructions, communications and other necessary support to
11 emergency response operations, and coordination and cooperation of
12 federal, state, local, and nongovernmental agencies so as to provide a
13 prompt and effective response to disasters, emergencies, and civil
14 defense emergencies to prevent and minimize the injury and damage;

15 (d) The provision of relief and recovery assistance to individuals,
16 political subdivisions of the state, and state agencies;

17 (e) Identification of areas of the state particularly vulnerable to
18 disaster, emergency, or civil defense emergency;

19 (f) Recommendations for preventive and preparedness measures
20 designed to eliminate or reduce disasters, emergencies, or civil defense
21 emergencies or their impact, including, but not limited to, zoning,
22 building, and other land-use control, and safety measures for securing
23 mobile homes or other nonpermanent or semipermanent structures;

24 (g) Authorization and procedures for the erection or other
25 construction of temporary works designed to protect against or mitigate
26 danger, damage, or loss from flood, conflagration, or other disaster,
27 emergency, or civil defense emergency;

28 (h) Assistance in designing city, village, county, and
29 interjurisdictional emergency operations plans;

30 (i) Preparation and distribution to the appropriate state and
31 political subdivision officials of catalogs of federal, state, and

1 private disaster assistance programs; and

2 (j) Other necessary matters.

3 (3) The Nebraska Emergency Management Agency shall take an integral
4 part in the development and revision of city, village, county, and
5 interjurisdictional emergency operations plans prepared under section
6 81-829.46. It shall employ or otherwise secure the services of
7 professional and technical personnel capable of providing expert
8 assistance to political subdivisions and to city, village, county, and
9 interjurisdictional emergency management organizations. Such personnel
10 shall consult with such political subdivisions and organizations on a
11 regularly scheduled basis and shall make field examinations of the areas,
12 circumstances, and conditions to which particular city, village, county,
13 and interjurisdictional emergency operations plans are intended to apply
14 and may suggest or require revisions.

15 (4) In preparing and revising the Nebraska emergency operations
16 plans, the agency shall seek the advice and assistance of other agencies
17 of government and the private sector, including organizations providing
18 advocacy or other services to persons with disabilities or who have
19 functional needs. In advising city, village, county, and
20 interjurisdictional emergency management organizations, the Nebraska
21 Emergency Management Agency shall encourage them to also seek advice from
22 these sources.

23 (5) The Nebraska emergency operations plans or any part thereof may
24 be incorporated in rules or regulations of the agency.

25 (6) The agency shall:

26 (a) Determine the requirements of the state and its political
27 subdivisions for basic necessities such as food, clothing, and shelter in
28 various disaster, emergency, or civil defense emergency situations;

29 (b) Procure and pre-position emergency supplies, materials, and
30 equipment;

31 (c) Adopt and promulgate rules and regulations setting out standards

1 and requirements for city, village, county, and interjurisdictional
2 emergency operations plans;

3 (d) Periodically review city, village, county, and
4 interjurisdictional emergency operations plans;

5 (e) Provide for state emergency response teams;

6 (f) Establish and operate or assist local governments, their
7 emergency management organizations, and interjurisdictional emergency
8 management organizations in establishing and operating training programs
9 and programs of public information;

10 (g) Make surveys of such industries, resources, and facilities, both
11 public and private, within the state as are necessary to carry out the
12 purposes of the Emergency Management Act;

13 (h) Plan and make arrangements for the availability and use of any
14 private facilities, services, and property and, if necessary and if in
15 fact used, provide for payment for use under terms and conditions agreed
16 upon;

17 (i) Establish a register of persons and organizations with training
18 and skills important in disaster prevention, mitigation, preparedness,
19 response, and recovery and emergency management;

20 (j) Establish a register of mobile and construction equipment and
21 temporary housing available for use in a disaster or emergency;

22 (k) Prepare for issuance by the Governor proclamations, orders,
23 rules, and regulations as are necessary or appropriate in coping with
24 disasters, emergencies, and civil defense emergencies;

25 (l) Cooperate with the federal government and any public or private
26 agency or entity in achieving any purpose of the act and in implementing
27 programs for disaster prevention, mitigation, preparedness, response, and
28 recovery and emergency management;

29 (m) Coordinate state emergency response as directed by the Governor;

30 (n) Cooperate with other emergency management agencies and public
31 agencies in the development of emergency management registries which

1 include persons with disabilities or who have functional needs and the
2 families and guardians of such persons for purposes of planning for
3 assistance for such persons and their families and guardians before,
4 during, and after a disaster or other emergency. Participation in an
5 emergency management registry by persons with functional needs and their
6 families shall be voluntary. Information obtained by emergency management
7 agencies or other public agencies for such purposes shall not be
8 considered a public record under section 84-712.01. All information
9 acquired pursuant to this subdivision is confidential and shall not be
10 disclosed or released except to other agencies which have a legitimate
11 and official interest in the information for carrying out the purposes of
12 this subdivision. Any person acquiring information pursuant to this
13 subdivision who intentionally discloses or releases such information in
14 violation of this subdivision is guilty of a Class III misdemeanor; and

15 (o) Do other things necessary, incidental, or appropriate for the
16 implementation of the act.

17 Sec. 3. Original sections 81-829.39 and 81-829.41, Reissue Revised
18 Statutes of Nebraska, are repealed.