

FIRST REGULAR SESSION

# SENATE BILL NO. 770

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

1110S.01H

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 44.010, 44.032, and 44.100, RSMo, and to enact in lieu thereof three new sections relating to emergency powers.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 44.010, 44.032, and 44.100, RSMo, are  
2 repealed and three new sections enacted in lieu thereof, to be  
3 known as sections 44.010, 44.032, and 44.100, to read as  
4 follows:

44.010. As used in sections 44.010 to 44.130, the  
2 following terms mean:

- 3 (1) "Agency", the state emergency management agency;
- 4 (2) "Bioterrorism", the intentional use of any  
5 microorganism, virus, infectious substance, or biological  
6 product that may be engineered as a result of biotechnology,  
7 or any naturally occurring or bioengineered component of any  
8 such microorganism, virus, infectious substance, or  
9 biological product, to cause death, disease, or other  
10 biological malfunction in a human, an animal, a plant, or  
11 another living organism in order to influence the conduct of  
12 government or to intimidate or coerce a civilian population;
- 13 (3) "Director", the director of the state emergency  
14 management agency;
- 15 (4) "Disasters", disasters which may result from  
16 terrorism, including bioterrorism, or from fire, wind,  
17 flood, earthquake, or other natural or man-made causes;

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

(5) "Disaster area", a geographic area or areas within the state which have been designated as such by the governor or by resolution of the general assembly, due to the occurrence of a disaster, for the purpose of providing economic or other relief as provided in section 44.032;

(6) "Economic or geographic area", an area or areas within the state, or partly in this state and adjacent states, comprising political subdivisions grouped together for purposes of administration, organization, control or disaster recovery and rehabilitation in time of emergency;

[(6)] (7) "Emergency", any state of emergency declared by proclamation by the governor, or by resolution of the legislature pursuant to sections 44.010 to 44.130 upon the actual occurrence of a natural or man-made disaster of major proportions within this state when the safety and welfare of the inhabitants of this state are jeopardized;

[(7)] (8) "Emergency management", government at all levels performing emergency functions, other than functions for which military forces are primarily responsible;

[(8)] (9) "Emergency management functions", "emergency management activities" and "emergency management service", those functions required to prepare for and carry out actions to prevent, minimize and repair injury and damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, either on order of or at the request of the federal government, or in the event the federal government is incapable of administering such control;

[(9)] (10) "Emergency resources planning and management", planning for, management and coordination of national, state and local resources;

50           [(10)] (11) "Executive officer of any political  
51 subdivision", the county commission or county supervisor or  
52 the mayor or other manager of the executive affairs of any  
53 city, town, village or fire protection district;

54           [(11)] (12) "Local organization for emergency  
55 management", any organization established under this law by  
56 any county or by any city, town, or village to perform local  
57 emergency management functions;

58           [(12)] (13) "Management", the activities of the  
59 emergency management director in the implementation of  
60 emergency operations plans during time of emergency;

61           [(13)] (14) "Planning", activities of the state and  
62 local emergency management agency in the formulation of  
63 emergency management plans to be used in time of emergency;

64           [(14)] (15) "Political subdivision", any county or  
65 city, town or village, or any fire district created by law;

66           [(15)] (16) "Urban search and rescue task force", any  
67 entity whose primary responsibility is to locate, remove,  
68 and provide medical care to persons in collapsed buildings.

44.032. 1. (1) As used in this section, the term  
2 "rural electric cooperative" means any rural electric  
3 cooperative organized or operating under the provisions of  
4 chapter 394, any corporation organized on a nonprofit or a  
5 cooperative basis as described in subsection 1 of section  
6 394.200, or any electrical corporation operating under a  
7 cooperative business plan as described in subsection 2 of  
8 section 393.110.

9           (2) The general assembly recognizes the necessity for  
10 anticipating and making advance provisions to care for the  
11 unusual and extraordinary burdens imposed by disasters or  
12 emergencies on this state, its political subdivisions, and  
13 rural electric cooperatives. To meet such situations, it is

14 the intention of the general assembly to confer emergency  
15 powers on the governor, acting through the director, and  
16 vesting the governor with adequate power and authority  
17 within the limitation of available funds in the Missouri  
18 disaster fund to meet any such emergency or disaster.

19 2. There is hereby established a fund to be known as  
20 the "Missouri Disaster Fund", to which the general assembly  
21 may appropriate funds and from which funds may be  
22 appropriated annually to the state emergency management  
23 agency. The funds appropriated shall be expended during a  
24 state emergency at the direction of the governor and upon  
25 the issuance of an emergency declaration which shall set  
26 forth the emergency, **or the designation of a disaster area**  
27 **as defined in section 44.010**, and shall state that it  
28 requires the expenditure of public funds to furnish  
29 immediate aid and relief. The director of the state  
30 emergency management agency shall administer the fund.

31 3. Expenditures may be made upon direction of the  
32 governor for emergency management, as defined in section  
33 44.010, or to implement the state disaster plans.  
34 Expenditures may also be made to meet the matching  
35 requirements of state and federal agencies for any  
36 applicable assistance programs.

37 4. Assistance may be provided from the Missouri  
38 disaster fund to political subdivisions of this state and  
39 rural electric cooperatives that have suffered from a  
40 disaster to such an extent as to impose a severe financial  
41 burden exceeding the ordinary reserve capacity of the  
42 subdivision or rural electric cooperative affected.  
43 Applications for aid under this section shall be made to the  
44 state emergency management agency on such forms as may be  
45 prescribed and furnished by the agency, which forms shall

require the furnishing of sufficient information to determine eligibility for aid and the extent of the financial burden incurred. The agency may call upon other agencies of the state in evaluating such applications. The director of the state emergency management agency shall review each application for aid under the provisions of this section and recommend its approval or disapproval, in whole or in part, to the governor. If approved, the governor shall determine and certify to the director of the state emergency management agency the amount of aid to be furnished. The director of the state emergency management agency shall thereupon issue the director's voucher to the commissioner of administration, who shall issue the commissioner's warrants therefor to the applicant.

5. When a disaster or emergency has been proclaimed by the governor or there is a national emergency, the director of the state emergency management agency, upon order of the governor, shall have authority to expend funds for the following:

(1) The purposes of sections 44.010 to 44.130 and the responsibilities of the governor and the state emergency management agency as outlined in sections 44.010 to 44.130;

(2) Employing, for the duration of the response and recovery to emergency, additional personnel and contracting or otherwise procuring necessary appliances, supplies, equipment, and transport;

(3) Performing services for and furnishing materials and supplies to state government agencies, counties, municipalities, and rural electric cooperatives with respect to performance of any duties enjoined by law upon such agencies, counties, municipalities, and rural electric cooperatives which they are unable to perform because of

78 extreme natural or man-made phenomena, and receiving  
79 reimbursement in whole or in part from such agencies,  
80 counties, municipalities, and rural electric cooperatives  
81 able to pay therefor under such terms and conditions as may  
82 be agreed upon by the director of the state emergency  
83 management agency and any such agency, county, municipality,  
84 or rural electric cooperative;

85       (4) Performing services for and furnishing materials  
86 to any individual in connection with alleviating hardship  
87 and distress growing out of extreme natural or man-made  
88 phenomena, and receiving reimbursement in whole or in part  
89 from such individual under such terms as may be agreed upon  
90 by the director of the state emergency management agency and  
91 such individual;

92       (5) Providing services to counties and municipalities  
93 with respect to quelling riots and civil disturbances;

94       (6) Repairing and restoring public infrastructure;

95       (7) Furnishing transportation for supplies to  
96 alleviate suffering and distress;

97       (8) Furnishing medical services and supplies to  
98 prevent the spread of disease and epidemics;

99       (9) Quelling riots and civil disturbances;

100       (10) Training individuals or governmental agencies for  
101 the purpose of perfecting the performance of emergency  
102 assistance duties as defined in the state disaster plans;

103       (11) Procurement, storage, and transport of special  
104 emergency supplies or equipment determined by the director  
105 to be necessary to provide rapid response by state  
106 government to assist counties and municipalities in  
107 impending or actual emergencies;

108           (12) Clearing or removing from publicly or privately  
109 owned land or water, debris and wreckage which may threaten  
110 public health or safety;

111           (13) Reimbursement to any urban search and rescue task  
112 force for any reasonable and necessary expenditures incurred  
113 in the course of responding to any declared emergency under  
114 this section; and

115           (14) Such other measures as are customarily necessary  
116 to furnish adequate relief in cases of catastrophe or  
117 disaster.

118           6. The governor may receive such voluntary  
119 contributions as may be made from any source to aid in  
120 carrying out the purposes of this section and shall credit  
121 the same to the Missouri disaster fund.

122           7. All obligations and expenses incurred by the  
123 governor in the exercise of the powers and duties vested by  
124 the provisions of this section shall be paid by the state  
125 treasurer out of available funds in the Missouri disaster  
126 fund, and the commissioner of administration shall draw  
127 warrants upon the state treasurer for the payment of such  
128 sum, or so much thereof as may be required, upon receipt of  
129 proper vouchers provided by the director of the state  
130 emergency management agency.

131           8. The provisions of this section shall be liberally  
132 construed in order to accomplish the purposes of sections  
133 44.010 to 44.130 and to permit the governor to cope  
134 adequately with any emergency which may arise, and the  
135 powers vested in the governor by this section shall be  
136 construed as being in addition to all other powers presently  
137 vested in the governor and not in derogation of any existing  
138 powers.

139           9. Such funds as may be made available by the  
140 government of the United States for the purpose of  
141 alleviating distress from disasters may be accepted by the  
142 state treasurer and shall be credited to the Missouri  
143 disaster fund, unless otherwise specifically provided in the  
144 act of Congress making such funds available.

145           10. The foregoing provisions of this section  
146 notwithstanding, any expenditure or proposed series of  
147 expenditures which total in excess of one thousand dollars  
148 per project shall be approved by the governor prior to the  
149 expenditure.

          44.100. 1. The emergency powers of the governor shall  
2 be as follows:

3           (1) The provisions of this section shall be operative  
4 only during the existence of a state of emergency (referred  
5 to in this section as "emergency"). **Any emergency shall be**  
6 **limited to the least restrictive geographic area and the**  
7 **provisions of this section shall be enforced in the least**  
8 **intrusive, disruptive, or restrictive manner to the economic**  
9 **and social activities of the citizens of this state.** The  
10 existence of an emergency may be proclaimed by the governor  
11 or by resolution of the legislature, if the governor in his  
12 proclamation, or the legislature in its resolution, finds  
13 that a natural or man-made disaster of major proportions has  
14 actually occurred within this state, and that the safety and  
15 welfare of the inhabitants of this state require an  
16 invocation of the provisions of this section;

17           (2) **Any emergency proclaimed by the governor may be**  
18 **called for no more than ten days unless extended by a**  
19 **concurrent resolution of the general assembly. Any**  
20 **emergency proclaimed by resolution of the general assembly,**  
21 **or any extension of an emergency, shall be called for no**



22 **more than thirty days and such resolution shall be by a two-**  
23 **thirds majority of the members of both the house of**  
24 **representatives and the senate.** Any emergency, whether  
25 proclaimed by the governor or by the legislature, shall  
26 terminate upon the proclamation thereof by the governor, or  
27 the passage by the legislature, of a resolution terminating  
28 such emergency;

29 (3) During the period that the state of emergency  
30 exists or continues, the governor shall:

31 (a) Enforce and put into operation all plans, rules  
32 and regulations relating to disasters and emergency  
33 management of resources adopted under this law and to assume  
34 direct operational control of all emergency forces and  
35 volunteers in the state;

36 (b) Take action and give directions to state and local  
37 law enforcement officers and agencies as may be reasonable  
38 and necessary for the purpose of securing compliance with  
39 the provisions of this law and with the orders, rules and  
40 regulations made pursuant thereof;

41 (c) Seize, take or requisition to the extent necessary  
42 to bring about the most effective protection of the public:

43 a. Any means of transportation, other than railroads  
44 and railroad equipment and fuel, and all fuel necessary for  
45 the propulsion thereof;

46 b. Any communication system or part thereof necessary  
47 to the prompt and efficient functioning of the emergency  
48 management of the state;

49 c. All stocks of fuel;

50 d. Facilities for housing, feeding and hospitalization  
51 of persons, including buildings and plants;

52 (d) Control, restrict and regulate by rationing,  
53 freezing, use of quotas, prohibitions on shipments, price

54 fixing, allocation or other means the use, sale or  
55 distribution of food, feed, fuel, clothing and other  
56 commodities, materials, goods or services;

57 (e) Prescribe and direct activities in connection with  
58 but not limited to use, conservation, salvage and prevention  
59 of waste of materials, services and facilities, including  
60 production, transportation, power and communication  
61 facilities, training and supply of labor, utilization of  
62 industrial plants, health and medical care, nutrition,  
63 housing, including the use of existing and private  
64 facilities, rehabilitation, education, welfare, child care,  
65 recreation, consumer protection and other essential civil  
66 needs;

67 (f) Use or distribute all or any of this property  
68 among the inhabitants of the state in any area adversely  
69 affected by a natural or man-made disaster and to account to  
70 the state treasurer for any funds received thereof;

71 (g) Waive or suspend the operation of any statutory  
72 requirement or administrative rule regarding the licensing,  
73 certification or issuance of permits evidencing  
74 professional, mechanical or other skills;

75 (h) Waive or suspend the operation of any statutory  
76 requirement or administrative rule prescribing procedures  
77 for conducting state business, where strict compliance with  
78 such requirements and rules would prevent, hinder, or delay  
79 necessary action by the department of health and senior  
80 services to respond to a declared emergency or increased  
81 health threat to the population;

82 (i) In accordance with rules or regulations, provide  
83 that all law enforcement authorities and other emergency  
84 response workers and agencies of other states who may be  
85 within this state at the request of the governor or pursuant

86 to state or local mutual-aid agreements or compacts shall  
87 have the same authority and possess the same powers, duties,  
88 rights, privileges and immunities as are possessed by like  
89 law enforcement authorities and emergency response workers  
90 and agencies of this state;

91 (j) Perform and exercise such other functions, powers  
92 and duties as may be necessary to promote and secure the  
93 safety and protection of the civilian population;

94 (k) Authorize the director of finance and the director  
95 of credit unions to waive or suspend the operation of any  
96 statutory requirement or administrative rule applicable to  
97 the division of finance, banking, financial services, or the  
98 division of credit unions and take action and give direction  
99 to banks, credit unions, and financial institutions,  
100 including coordinating actions with emergency responders,  
101 federal agencies, and state banking and credit union  
102 associations as may be reasonable and necessary to preserve  
103 the safety and soundness of banks, credit unions, and  
104 financial institutions; and facilitate disaster response and  
105 recovery efforts to serve essential civil needs and protect  
106 the public interest.

107 2. When any property is seized, taken or requisitioned  
108 under this section, the circuit court of the county in which  
109 the property was taken may on the application of the owner  
110 thereof or on the application of the governor in cases where  
111 numerous claims may be filed, appoint three disinterested  
112 commissioners in the manner provided by section 523.040 to  
113 assess the damages which the owners may have sustained by  
114 reason of the appropriation thereof. Upon the application  
115 the amount due because of the seizure of property shall be  
116 determined in the manner provided in chapter 523 for the

117 determination of damages in case of the exercise of the  
118 power of eminent domain.

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