

State of New Hampshire HOUSE RECORD

Second Year of the 157th Session of the General Court Calendar and Journal of the 2002 Session

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Contains: Additional Regular Calendar Report and Amendments for March 7

HOUSE CALENDAR

ADDITIONAL COMMITTEE REPORT

THURSDAY MARCH 7

REGULAR CALENDAR

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

HB 1461-FN, transferring the office of emergency management to the department of safety, division of fire safety. **OUGHT TO PASS WITH AMENDMENT**

Rep. Michael O'Neil for Executive Departments and Administration: This bill transfers the responsibility for state emergency management from the Office of Emergency Management to the Department of Safety. The function will be located in the Division of Fire Safety, which will become the Division of Fire Safety and Emergency Management under the Director (the Fire Marshal). The events of September 11, 2001 clarified that changes to the existing emergency management operation are imperative in order to protect the NH citizens. Streamlining and coordinating our state's response to disasters and emergency situations is the best way to accomplish this end. The Department of Safety is the center of law enforcement and fire safety enforcement for the state. It therefore makes practical and operational sense for the emergency management function to be under that state agency. This bill retains the Governor's powers relative to the declaration of a state of emergency as well as the Governor's general emergency management authority. It also creates a newly constituted council on emergency preparedness and security made up of the heads of most state agencies as well as representatives of the police and fire chiefs and the counties.

This council advises the Governor but is required to report to the Speaker and the President on the state's preparedness and ability to respond to disasters. HB 1461 puts state government in a better position to more efficiently and effectively respond to emergency situations than it can under the current structure. **Vote 15-0.**

ADDITIONAL AMENDMENTS

(LISTED IN NUMERICAL ORDER)

2002-2869h

Floor Amendment to CACR 35

Proposed by Rep. Mirski

Amend the title of the resolution by replacing it with the following:

RELATING TO: taxation of real property.

PROVIDING THAT: the state shall not impose a real property tax to fund any function of state government and any real property tax imposed by a political subdivision of the state shall be solely for the use of that political subdivision.

Amend the resolution by replacing all after the resolving clause with the following:

I. That article 5 of the second part of the constitution be amended to read as follows:

[Art.] 5. [Power to Make Laws, Elect Officers, Define Their Powers and Duties, Impose Fines and Assess Taxes; Prohibited from Authorizing Towns to Aid Certain Corporations.] And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, either with penalties, or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this state, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defense of the government thereof, and to name and settle biennially, or provide by fixed laws for the naming and settling, all civil officers within this state, such officers excepted, the election and appointment of whom are hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this state, and the forms of such oaths or affirmations as shall be respectively administered unto them, for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments, and other punishments, and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and residents within, the said state; and upon all estates within the same; to be issued and disposed of by warrant, under the hand of the governor of this state for the time being, with the advice and consent of the council, for the public service, in the necessary defense and support of the government of this state, and the protection and preservation of the subjects thereof, according to such acts as are, or shall be, in force within the same; provided that the general court shall not authorize any town to loan or give its money or credit directly or indirectly for the benefit of any corporation having for its object a dividend of profits or in any way aid the same by taking its stocks or bonds. For the purpose of encouraging conservation of the forest resources of the state, the general court may provide for special assessments, rates and taxes on growing wood and timber. ***Notwithstanding any other provision of this constitution, the state shall not impose a real property tax to fund any function of state government and any real property tax imposed by a political subdivision shall be solely for the use of that political subdivision.***

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2002.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2002 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2002 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be:

Are you in favor of amending article 5 of the second part of the constitution to read as follows:

[Art.] 5. [Power to Make Laws, Elect Officers, Define Their Powers and Duties, Impose Fines and Assess Taxes; Prohibited from

Authorizing Towns to Aid Certain Corporations.] And further, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain, and establish, all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions, and instructions, either with penalties, or without, so as the same be not repugnant or contrary to this constitution, as they may judge for the benefit and welfare of this state, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defense of the government thereof, and to name and settle biennially, or provide by fixed laws for the naming and settling, all civil officers within this state, such officers excepted, the election and appointment of whom are hereafter in this form of government otherwise provided for; and to set forth the several duties, powers, and limits, of the several civil and military officers of this state, and the forms of such oaths or affirmations as shall be respectively administered unto them, for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution; and also to impose fines, mulcts, imprisonments, and other punishments, and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and residents within, the said state; and upon all estates within the same to be issued and disposed of by warrant, under the hand of the governor of this state for the time being, with the advice and consent of the council, for the public service, in the necessary defense and support of the government of this state, and the protection and preservation of the subjects thereof, according to such acts as are, or shall be, in force within the same; provided that the general court shall not authorize any town to loan or give its money or credit directly or indirectly for the benefit of any corporation having for its object a dividend of profits or in any way aid the same by taking its stocks or bonds. For the purpose of encouraging conservation of the forest resources of the state, the general court may provide for special assessments, rates and taxes on growing wood and timber. Notwithstanding any other provision of this constitution, the state shall not impose a real property tax to fund any function of state government and any real property tax imposed by a political subdivision shall be solely for the use of that political subdivision.

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 2002 General Court" shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption and shall apply to tax years beginning on and after April 1, 2003.

AMENDED ANALYSIS

This constitutional amendment-current resolution provides that the state shall not impose a real property tax to fund any function of state government and that any real property tax imposed by a political subdivision shall be solely for the use of that political subdivision.

2002-2882h

Floor Amendment to HB 1242

Proposed by Reps. Patten and Brundige

Amend the title of the bill by replacing it with the following:

AN ACT relative to the required vote for board articles.

Amend the bill by replacing all after the enacting clause with the following:

1 Required Vote. Amend RSA 33:8 to read as follows:

33:8 Town or District Bonds or Notes. Except as otherwise specifically provided by law, the issue of bonds or notes by any municipal corporation, except a city or a town which has adopted a charter pursuant to RSA 49-B, without a budgetary town meeting, ~~[and except a school district or municipality which has adopted official ballot voting procedures pursuant to RSA 40:13]~~ **or school district** shall be authorized by a vote by ballot of 2/3, and the issue of tax anticipation notes, by a vote of a majority, of all the voters present and voting at an annual or special meeting of such corporation, called for the purpose. ~~[The issue of notes or bonds by a school district or municipality which has adopted official ballot voting procedures pursuant to RSA 40:13 shall be authorized by a vote of 3/5].~~ No such action taken at any special meeting shall be valid unless a majority of all the legal voters are present and vote at such special meeting, unless the governing board of any municipality shall petition the superior court for permission to hold an emergency special meeting, which, if granted, shall give said special meeting the same authority as an annual meeting. The warrant for a special meeting shall be published once in a newspaper having a general circulation in

the municipality within one week after the posting of such special meeting. The warrant for any such annual or special meeting shall be served or posted at least 14 days before the date of such special meeting. Every warrant shall be deemed to have been duly served or posted, if the return on the warrant shall so state, and it shall be certified by the officer or officers required to serve or post the same. All bonds or notes, authorized in accordance with this chapter, shall be signed by the governing board, or a majority of the governing board, and countersigned by the treasurer of the municipality, and shall have the corporate seal, if any, affixed to it. The discretion of fixing the date, maturities, denominations, the interest rate, or discount rate in the case of notes, the place of payment, the form and other details of said bonds or notes and of providing for the sale of such bonds or notes, may be delegated to the governing board or to the treasurer and shall, to the extent provision therefor shall not have been made in the vote authorizing the same, be deemed to have been delegated to the governing board.

2 Effective Date. This act shall take effect 60 days after its passage.

AMENDED ANALYSIS

This bill lowers the required vote for bond articles to 2/3.

2002-2890h

Amendment to HB 1461-FN

Proposed by the Committee on Executive Departments and Administration

Amend the title of the bill by replacing it with the following:

AN ACT transferring the office of emergency management to the department of safety, division of fire safety and emergency management.

Amend the bill by replacing all after the enacting clause with the following:

1 Department of Safety; Division of Fire Safety and Emergency Management. Amend the introductory paragraph of RSA 21-P:12 to read as follows:

21-P:12 Division of Fire Safety ***and Emergency Management***. There is established within the department a division of fire safety ***and emergency management*** under the supervision of an unclassified director of fire safety ***and emergency management*** who shall be known as the state fire marshal. The state fire marshal shall be nominated by the commissioner of safety, after consultation with the state advisory board of fire control, for appointment by the governor, with the consent of the council, and shall serve a term of 4 years until a successor is appointed. ***If no successor has been appointed with the consent of the council within 6 months of the expiration of the term, the governor shall appoint a successor with the consent of the council.*** The state fire marshal shall be academically and technically qualified to hold the position. ~~He~~ ***The state fire marshal*** shall be a citizen of this state or become a citizen of this state within one year of his ***or her*** appointment. He ***or she*** shall devote his ***or her*** entire time to the duties of the division of fire safety ***and emergency management*** and shall receive the salary specified in RSA 94:1-a for the state fire marshal. The state fire marshal shall be responsible for the following functions, in accordance with applicable law.

2 Department of Safety; Fire Standards and Training Commission. Amend the introductory paragraph of RSA 21-P:26, I to read as follows:

I. There shall be a fire standards and training commission consisting of 16 members, including the commissioner of safety or designee, the commissioner of education or designee, the attorney general or designee, the chief of the forest protection, the director of the division of fire standards and training, and the director of the division of fire safety ***and emergency management***, who shall each serve during his ***or her*** continuance in such office, and one active member of each of the following associations or groups chosen by the governor, with the approval of the council, from a list of 3 qualified members submitted by each association or group:

3 New Hampshire Retirement System; Membership. Amend RSA 100-A:3, III-c to read as follows:

III-c. Notwithstanding the provisions of RSA 100-A:1, VIII, any permanent fireman who has been a group II member and who has 10 years' fire service experience, or any person included in the definition of "fire service personnel" as defined in RSA 21-P:25, II(c) who has 10 years' fire service experience, who is or becomes the director of the division of fire safety ***and emergency management***, the administrator of the fire standards and training commission, any fire instructor, supervisor, instructor, or

other technical specialist who has hazardous materials, firefighting, or rescue training functions and who has as a job requirement satisfied the fire standards and training commission's entrance and certification requirements for physical condition, education, and training shall be construed to be a permanent fireman for the purposes of membership in group II and shall remain in the system for the duration of service in that capacity with the fire standards and training commission.

4 New Sections; Powers of the Governor and Council; Emergency Powers. Amend RSA 4 by inserting after section 44 the following new sections:

4:45 State of Emergency Powers. The provisions of this section shall be operative only during the existence of a state of emergency as defined in RSA 21-P:35, VIII. Such state of emergency may be proclaimed by the governor or by a joint resolution of the house and senate if the governor or the legislature in such resolution finds that a natural, technological, or man-made disaster of major proportions is imminent or has occurred within this state, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section. During such period as such state of emergency exists or continues, the governor shall have and may exercise the following additional emergency powers:

I. To enforce all laws, rules, and regulations relating to emergency management and to assume control of any or all emergency management forces and helpers in the state.

II. To sell, lend, lease, give, transfer, receive, or deliver materials or perform services for emergency management purposes on such terms and conditions as the governor shall prescribe and without regard to the limitations of any existing law, and to account to the state treasurer for any funds received for such property.

III. To provide for and compel the evacuation of all or part of the population from any stricken or threatened area or areas within the state and to take such steps as are necessary for the receipt and care of such evacuees.

IV. Subject to the provisions of the state constitution, to remove from office any public officer having administrative responsibilities under RSA 21-P:34 through RSA 21-P:48. Such removal shall be upon charges after service upon such person of a copy of such charges and after giving such person an opportunity to be heard in his or her defense. Pending the preparation and disposition of charges, the governor may suspend such person for a period not exceeding 30 days. A vacancy resulting from removal or suspension pursuant to this section shall be filled by the governor until it is filled as otherwise provided by law.

V. To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population.

VI. To declare an emergency temporary location or locations for the seat of state government at such place or places within this state as the governor may deem advisable under the circumstances and to take such action and issue such orders as may be necessary for an orderly transaction of the affairs of state government to such emergency temporary location or locations. Such emergency temporary location or locations shall remain the seat of government until the legislature shall by law establish a new location or locations or until the state of emergency is declared to be ended by the governor and the seat of government is returned to its normal location.

4:46 Taking of Private Property; Compensation and Use.

I. Whenever a state of emergency is declared or invoked and the taking of real or personal property is required, the governor with the advice and consent of the executive council may, by warrant specifying the particular real property and the personal property by specification of the types, quantities, and general location, together with the names of the owners, when known, authorize the director of the division of fire safety and emergency management, by his or her agents, to:

(a) Take possession of any private real estate and the improvements on it for a limited period.

(b) Take title in the name of the state to any such improvement when the exigencies of the situation require its destruction.

(c) Take possession or title in the name of the state to:

(1) Any high explosives, except small arms ammunition.

(2) Any horses, vehicles, motor vehicles, aircraft, ships, boats, or any other means of conveyance, including the rolling stock of railroads or of motor bus transportation.

(3) Any cattle, poultry, provisions for man or beast, clothing, bedding, medicines and medical supplies in excess of the reasonable and immediate needs of the owner and the owner's household.

(4) Any fuel for heating or other necessary purposes.

(5) Any gasoline or other means of engine propulsion, or any communications equipment or systems.

II. Takings under this section shall be strictly limited to the necessities of the situation. The person proposing to take possession of any such property in the name of the state shall present to the owner or person in possession or control of the property a copy of the warrant under which the person purports to act certified by the director of the division of fire safety and emergency management. Upon taking possession or control of such property the person shall present a receipt specifically listing the property so taken and specifically referring to the warrant authorizing the taking.

III. Whenever possession of any real estate or title to any personal property is taken under this section, its owner or possessor, hereinafter referred to as the claimant, shall be entitled to damages on account of such taking. Upon the taking of any such property, the chief justice of the superior court is authorized to appoint a commission of 3 suitable persons to assess fair and just compensation in cases in which the amount cannot be determined by agreement. The chief justice shall fix the per diem compensation of the members of the commission and fill any vacancies which may occur. The commission shall determine what sum shall justly compensate the claimant for the property so taken and may in the performance of its duties hire, and the state shall pay for the services of, such skilled and disinterested appraisers as the commission shall deem necessary to assist it in the performance of its duty.

IV. Any claimant aggrieved by the award made by the commission may appeal to the superior court from the decision within 60 days from the granting of the award. All final awards of judgments entered against the state in such proceedings and the fees and expenses of the commission shall be promptly paid by the state treasurer, on warrant of the governor and council, from any money in the general fund of the treasury not otherwise appropriated.

V. The property taken under this section shall be used in such manner as the governor, with the advice and consent of the executive council, shall deem in the best interests of the state, its inhabitants or the United States, which manner may include the sale at the prevailing market price or the gratuitous distribution of the articles enumerated in subparagraphs I(c)(3), (4) and (5). All moneys derived from the sale of any such property shall be paid over to the state treasurer and deposited in the general fund of the state.

VI. Any person who willfully takes possession of, or attempts to take possession of, property, purporting to act under this section but without authority to so act, whether by false pretense or otherwise, upon conviction, shall be guilty of a class B felony if a natural person, or guilty of a felony if any other person, and 1/2 of any fine imposed shall be paid to the owner of the property and 1/2 to the county.

4:47 Emergency Management Powers. The governor shall have emergency management authority as defined in RSA 21-P:35, V, and pursuant to such authority may exercise emergency management powers including:

I. The power to enter into mutual aid agreements with other states relative to emergency management issues.

II. The power to provide for emergency lines of succession to such appointive offices in the state government as the governor in his or her discretion deems to be necessary to insure reasonable continuity of state government in the event of a disaster.

III. The power to make, amend, suspend and rescind necessary orders, rules and regulations to carry out the provisions of this subdivision in the event of a disaster beyond local control.

IV. The power to cooperate with the President of the United States and the commanders of the United States armed forces, the Emergency Management Agency of the United States, and other appropriate federal officers and agencies of other states in matters pertaining to the emergency management of the state and nation, including the direction and control of:

(a) Drills, mobilization of emergency management forces, and other tests and exercises;

(b) Warnings and signals for drills or actual emergencies and the mechanical devices to be used in connection with them; and

(c) The evacuation and reception of the civilian population.

5 New Paragraph; Department of Safety; Division of Fire Safety and Emergency Management; Oversight of Office of Emergency Management Added to Duties of State Fire Marshal. Amend RSA 21-P:12 by inserting after paragraph IV the following new paragraph:

V. Overseeing the operations of the office of emergency management in accordance with the provisions of RSA 21-P:34 through RSA 21-P:48.

6 Rulemaking Authority of the Commissioner of Safety; Reference Change. Amend RSA 21-P:14, II (z) to read as follows:

(z) The establishment of training criteria for hazardous materials incident responders and for the implementation of a statewide hazardous material command system. Such rules shall be in addition to rules adopted under RSA 21-P:14, II(a) and shall be adopted after consultation with the fire standards and training commission. No rule shall infringe on the authority of the governor or the office of emergency management under ~~[RSA 107-C]~~ **this chapter or RSA 4.**

7 New Subdivision; Department of Safety; Office of Emergency Management Established Within the Division of Fire Safety. Amend RSA 21-P by inserting after section 33 the following new subdivision:

Office of Emergency Management

21-P:34 Purpose. Because of the possibility of the occurrence of natural and man-made disasters resulting from fire, flood, hurricane, earthquake, prolonged power outages, disruption or contamination of the food or water supply, degradation of critical facilities and vital systems, disruption of communication systems, or other natural, technological or man-made causes, and in order that the state of New Hampshire will be adequately prepared to cope with such disasters; and, generally, in order to preserve the lives and the property of the people of the state, a state office of emergency management is hereby created under the direction of the director of fire safety and emergency management. The emergency management powers provided in this subdivision are conferred upon the governor and upon other executive heads of governing bodies of the state; the creation of local organizations for emergency management in the political subdivisions of the state is authorized; and provision is made for the rendering of mutual aid among the political subdivisions of the state and between this and other states and to cooperate with the federal government with respect to the carrying out of emergency management functions. It is further declared to be the purpose of this subdivision 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 preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

21-P:35 Definitions. In this subdivision:

I. "Commissioner" means the commissioner of safety.

II. "Coordinator" means the coordinator of emergency management.

III. "Council" means the advisory council on emergency preparedness and security.

IV. "Director" means the director of the division of fire safety and emergency management.

V. "Emergency management" means the preparation for and the carrying out of all emergency functions, including but not limited to emergency response and training functions, to prevent, minimize, and repair injury or damage resulting from the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, windstorm, wave actions, technological incidents, oil or chemical spill, or water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, or riot.

VI. "Local organization for emergency management" means an organization created in accordance with the provisions of this subdivision by state, county, or local authority to perform local emergency management functions.

VII. "Political subdivision" means counties, cities, towns, and duly established village precincts.

VIII. "State of emergency" means that condition, situation, or set of circumstances deemed to be so extremely hazardous or dangerous to life or property that it is necessary and essential to invoke, require, or utilize extraordinary measures, actions, and procedures to lessen or mitigate possible harm.

21-P:36 Office of Emergency Management; Coordinator of Emergency Management. There is hereby created, within the division of fire safety and emergency management, an office of emergency management. The director, with the approval of the commissioner, shall appoint a coordinator of emergency management, who shall carry out such duties as are specifically enumerated in this subdivision and as may be assigned to the coordinator by the director. The coordinator of emergency

management shall be academically and technically qualified to hold the position. The coordinator may employ such necessary technical, clerical, stenographic, and other personnel, and may make such necessary expenditures from state or federal funds as are or may be made available for purposes of emergency management. The coordinator and other personnel of the office of emergency management shall be provided with appropriate office space, furniture, equipment, supplies, stationery and printing, and funds for traveling and related expenses, in the same manner as provided for personnel of other state agencies. With the approval of the director, the coordinator shall coordinate the activities of all organizations for emergency management within the state, state and local, county, and private, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this subdivision as may be prescribed by the commissioner. If, as a result of a disaster declaration, the state of New Hampshire enters into an agreement with the federal government or another entity for assistance, either direct or indirect, financial or otherwise, such agreement shall be transmitted to the president of the senate and to the speaker of the house within 30 days after approval by the governor and council. Any obligation of the general fund of the state of New Hampshire as a result of such an agreement shall be submitted jointly to the general court by the president of the senate and speaker of the house for prompt payment. Administrative costs of the state of New Hampshire incident to such obligation shall be included in the submission to the general court.

21-P:37 Emergency Management Powers Conferred. The director shall have general direction and control of the office of emergency management, and shall be responsible for the carrying out of the provisions of this subdivision. In the event of disaster beyond local control, the governor may assume direct operational control over all or any part of the emergency management functions within the state. In performing the director's duties under this subdivision and to effect its policy and purposes, the director is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the emergency management of this state and of the nation, and is further authorized and empowered:

I. To prepare a comprehensive plan and program for the emergency management of this state, such plan and program to be integrated into and coordinated with the emergency management plans of the federal government and of other states to the greatest possible extent, and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state and private agencies, such plans to be integrated into and coordinated with the emergency management plan and program of this state to the greatest possible extent.

II. In accordance with such plan and program for the emergency management of this state, to procure supplies and equipment, to institute training programs and public information programs, and to take other necessary preparatory steps to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

III. To make such studies and surveys of industries, transportation, communication, housing and medical facilities, and resources, including but not limited to food, petroleum, and housing, and other facilities in the state as may be necessary to ascertain the capabilities of the state for emergency management, and to plan for their most efficient emergency use.

IV. On behalf of the state and subject to the approval of the governor, to coordinate mutual aid plans between or among political subdivisions of the state.

V. To delegate to the coordinator any administrative authority vested in the director under this subdivision, and to authorize the subdelegation of any such authority.

21-P:38 Emergency Management Powers and Duties Regarding Communications Systems. The office of emergency management shall ascertain what means exist for rapid and efficient communications during natural and man-made disasters. The division of emergency management shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive state or state and federal telecommunications or other communications system which may be established for purposes of emergency management. In studying the character and feasibility of any such system or its several parts, the office of emergency management shall consult with the department of administrative services and evaluate the possibility of the multi-purpose use of such a system for general state and local government purposes. The office of emergency management shall make recommendations regarding such communications systems to the director as appropriate.

21-P:39 Local Organization for Emergency Management.

I. Each political subdivision of the state shall establish a local organization for emergency management in accordance with the state emergency management plan and program. Each local organization for emergency management shall have a local director who shall be appointed and removed by the county commissioners of a county, the city council of a city, or board of selectmen of a town, and who shall have direct responsibility for the organization, administration and operation of such local organization for emergency management, subject to the direction and control of such appointing officials. Each local organization shall have

jurisdiction only within its respective political subdivision, and the director appointed by that political subdivision shall be responsible to his or her appointing authority. The appointing authority may appoint one of its own members or any other citizen or official to act as local director and shall notify the state director in writing of such appointment. If a local director is removed, the state director shall be notified immediately. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized.

II. Until a local director has been appointed, the chief elected official shall be directly responsible for the organization, administration, and operation of such local organization for emergency management.

III. In carrying out the provisions of this subdivision, each political subdivision in which any disaster as described in RSA 21-P:35, V occurs may enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision may exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law, excepting mandatory constitutional requirements, pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, and the appropriation and expenditure of public funds.

IV. In carrying out the provisions of this subdivision, each political subdivision in which any disaster as described in RSA 21-P:35, V occurs may meet at any place within or without the territorial limits of such political subdivision and shall proceed to establish and designate by ordinance, resolution, or other manner, alternate or substitute sites or places as the emergency temporary location or locations of such government where all or any part of the public business may be transacted and conducted during the emergency situation. Such sites or places may be within or without the territorial limits of such political subdivision, but shall be within this state.

21-P:40 Mutual Aid Arrangements. The local director of each local organization for emergency management may, with the approval of the commissioner and 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 case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements. Parties shall be entitled to the same immunities and exemptions as provided in RSA 21-P:41.

21-P:41 Immunity and Exemption.

I. All functions under this subdivision and all other activities relating to emergency management are hereby declared to be governmental functions. Neither the state nor any of its political subdivisions nor any agency of the state or political subdivision, nor any private corporations, organizations, or agencies, nor any emergency management worker complying with or reasonably attempting to comply with this subdivision, or any order or rule adopted or regulation promulgated pursuant to the provisions of this subdivision, or pursuant to any ordinance relating to precautionary measures enacted by any political subdivision of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this subdivision, under the workers' compensation law, or under any retirement law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

II. Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized emergency management worker who shall, in the course of performing his duties as such, practice such professional, mechanical, or other skill during an emergency.

III. As used in this section the term "emergency management worker" includes any full or part-time paid, volunteer, or auxiliary employee of this state, other states, territories, possessions, the District of Columbia, the federal government, any neighboring country, or of any political subdivision of such entities, or of any corporation, agency or organization, public or private, performing emergency management services at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any of its political subdivisions.

IV. Dentists licensed in this state, nurses registered in this state, student nurses undergoing training at a licensed hospital in this state, or emergency medical care providers licensed under RSA 153-A, during any emergency, shall be regarded as authorized emergency management workers and while so engaged may practice, in addition to the authority granted them by other statutes, administration of anesthetics; minor surgery; intravenous, subcutaneous, and intramuscular procedures; and

oral and topical medication under the general but not necessarily direct supervision of a member of the medical staff of a legally incorporated and licensed hospital of this state, and to assist such staff members in other medical and surgical procedures.

V. Any emergency management worker, performing emergency management services at any place in this state pursuant to agreements, compacts or arrangements for mutual aid and assistance, to which the state or one of its political subdivisions is a party, shall possess the same powers, duties, immunities, and privileges the worker would ordinarily possess if performing his or her duties in the state or political subdivision in which normally employed or rendering services.

VI. Any emergency management worker shall:

(a) If the worker is an employee of the state, have the powers, duties, rights, and privileges and receive the compensation incidental to his or her employment;

(b) If the worker is an employee of a political subdivision of the state, whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to his or her employment; and

(c) If the worker is not an employee of the state or one of its political subdivisions, be entitled to the same rights as to compensation for injuries as are provided by law for the employees of this state. The emergency management personnel shall, while on duty, be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving, and shall be reimbursed for all actual travel and subsistence expenses incurred under orders issued by the director.

21-P:42 Private Liability. Any person owning or controlling real estate or other premises or private property who grants a license or privilege or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises or private property for the purpose of compliance or attempting to comply with this subdivision during an actual or impending emergency or practice exercise, together with his or her successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises or private property or loss of, or damage to, the property of such person.

21-P:43 Appropriations and Authority to Accept Services, Gifts, Grants, and Loans. Each political subdivision may make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for emergency management. Whenever the federal government or any federal agency or officer offers to the state, or through the state to any of its political subdivisions, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management the state, acting through the governor, commissioner, or such political subdivision, acting with the consent of the governor and through its executive officer, city council, or board of selectmen, may accept such offer, subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. Whenever any person, firm or corporation offers to the state or to any of its political subdivisions services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management the state, acting through the governor, or such political subdivision, acting through its executive officer, city council, or board of selectmen, may accept such offer, subject to its terms.

21-P:44 Utilization of Existing Services and Facilities. In carrying out the provisions of this subdivision, the governor, executive heads of state agencies, and local executive officers 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 its political subdivisions to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the governor and to the emergency management organizations of the state upon request.

21-P:45 Enforcement. It shall be the duty of every organization for emergency management established under this subdivision and of the officers of such organization to execute and enforce such orders, rules, and regulations as may be made by the governor under authority of this subdivision or RSA 4:45.

21-P:46 New Hampshire Emergency Response and Recovery Fund. There is hereby established a New Hampshire emergency response and recovery fund. The fund shall provide a source for the matching funds required as a commitment to secure Federal Emergency Management Agency relief assistance grants for costs incurred in disasters declared by the President of the United States. The fund shall be nonlapsing and continually appropriated to the department of safety.

21-P:47 Penalty. If any person violates or attempts to violate any order, rule, or regulation made pursuant to this subdivision,

such person shall be guilty of a misdemeanor.

21-P:48 Advisory Council on Emergency Preparedness and Security.

I. There is hereby created an advisory council on emergency preparedness and security, consisting of the following members:

- (a) The state coordinator of emergency management.
- (b) The attorney general.
- (c) The chairman of the public utilities commission.
- (d) The adjutant general.
- (e) The commissioner of the department of health and human services.
- (f) The director of the division of fire safety and emergency management.
- (g) The commissioner of the department of safety.
- (h) The director of the governor's energy office.
- (i) The commissioner of the department of transportation.
- (j) The commissioner of the department of resources and economic development.
- (k) The commissioner of the department of agriculture, markets, and food.
- (l) The commissioner of the department of environmental services.
- (m) The commissioner of the department of administrative services.
- (n) The director of the Pease development authority, division of ports and harbors.
- (o) The director of police standards and training.
- (p) A police chief, appointed by the governor.
- (q) The director of the division of fire standards and training.
- (r) A fire chief, appointed by the governor.
- (s) One member of the fire standards and training commission, appointed by the chairman.
- (t) A county sheriff, appointed by the governor.

II. The council shall advise the governor on issues involving the state's ability to respond to natural and man-made disasters, and the preparation and maintenance of a state disaster plan in conformance with any federal regulation. The director of the division of fire safety and emergency management shall seek the advice of the council in any matter pertaining to the state's emergency management plan, including the allocation of federal and state resources to meet the objectives of such plan. The council shall routinely report to the governor, senate president, and speaker of the house on any recommendations of the council which pertain to the state's preparedness and ability to respond to natural and man-made disasters. The director of the division of fire safety and emergency management shall be the chairman of the council.

8 Transportation of High-Level Radio Active Waste; Coordination with Other Agencies; Reference Change. Amend RSA 107-D:9 to read as follows:

107-D:9 Coordination with Other Agencies. The department is expressly authorized to coordinate with or to contract with the office of emergency management established in RSA ~~[107-C]~~ **21-P:36** and with other state agencies or departments, including but not limited to the department of transportation and the department of health and human services, to perform any activities necessary to implement this chapter.

9 Oil Discharge or Spillage in Surface Waters or Groundwater; Governor's Powers; Reference Change. Amend RSA 146-A:12, IV

to read as follows:

IV. The provisions of RSA ~~[107-C]~~ **4:45, RSA 4:46, and RSA 21-P:34 through RSA 21-P:48** as they shall apply to the taking of private property, compensation and use, mutual aid, immunity, aid in emergency, enforcement and compensation shall apply to disasters or catastrophes proclaimed by the governor under this chapter.

10 Aeronautics Act, Civil Air Patrol Program Funds; Reference Change. Amend RSA 422:14-c, I to read as follows:

I. The ~~[governor's]~~ office of emergency management, established in RSA ~~[107-C:3]~~ **21-P:36**, shall administer a grant program for the civil air patrol in New Hampshire.

11 New Hampshire Safe Drinking Water Act; Emergency Planning; Reference Change. Amend RSA 485:40 to read as follows:

485:40 Emergency Planning. The department shall develop plans, with the advice and assistance of the ~~[governor's]~~ office of emergency management, and of the public water systems of the state, for emergency conditions and situations that may endanger the public health or welfare by contamination of drinking water. Such plans may include potential sources of contaminants and situations or conditions that could place them in the sources of public drinking water, techniques and methods to be used by public water systems to reduce or eliminate the dangers to public health caused thereby, methods and times for analysis or testing during such emergency conditions or situations, alternate sources of water available to public water systems, and methods of supplying drinking water to consumers if a public water system cannot supply such water.

12 Wiretapping and Eavesdropping; Interception and Disclosure of Telecommunication or Oral Communications Prohibited; Reference Change. Amend RSA 570-A:2, II (h) to read as follows:

(h) Any municipal, county, or state fire or police department, the office of emergency management as created by RSA ~~[107-C:3]~~ **21-P:36**, the bureau of emergency communications as defined by RSA 106-H, or any independently owned emergency service, and their employees in the course of their employment, when receiving or responding to emergency calls, to intercept, record, disclose or use a telecommunication, while engaged in any activity which is a necessary incident to the rendition of service or the protection of life or property.

13 Transition. The transfer of the office of emergency management to the department of safety, division of fire safety and emergency management shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, or other available funds in any account or subdivision of an account of the emergency management agency established under RSA 107-C and authorized for use by the office of emergency management or the emergency management agency.

14 Repeal. RSA 107-C, the emergency management act, is repealed.

15 Effective Date. This act shall take effect July 1, 2002.

AMENDED ANALYSIS

This bill transfers the office of emergency management to the department of safety, division of fire safety and emergency management and establishes an advisory council on emergency preparedness and security, formerly the emergency management advisory council.

2002-2885h

Floor Amendment to HB 1472-FN

Proposed by Rep. Welch

Amend RSA 106-F:7, I as inserted by section 1 of the bill by replacing it with the following:

I. Following review of the application, the applicant's references, and investigation into the character, competency and integrity of the applicant, the commissioner shall as soon as practicable issue a license or renewal license in the form prescribed by him to the applicant, or notify the applicant of denial of the application. ***Prior to approval of any armed detective or security license issued under this chapter, the applicant shall submit to a fingerprint examination conducted by the Federal Bureau of Investigation, and the department of safety shall be authorized to use the records of the Federal Bureau of Investigation in the screening of applicants. The applicant shall be responsible for the cost of any background investigation or criminal records check required under this section.***

