

## POLICY NOTE

# SJR 8200, the Washington Government Continuation Legislation for Catastrophic Incidents Amendment

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### Key Findings

1. SJR 8200 is a proposed amendment to the state constitution.
2. The measure would expand the state's emergency powers to act during "catastrophic incidents," like earthquakes or tsunamis.
3. Currently, the state's emergency power only applies when Washington state is under foreign attack.
4. A source of concern is that state leaders may use SJR 8200 to exercise emergency power when there is no emergency.
5. The concern stems from their common practice of adding an "emergency" clause to routine bills to get around normal lawmaking safeguards.
6. A "yes" vote would allow the Legislature to use new powers during a major natural disaster. A "no" vote would keep the use of emergency powers only for responding to a clear enemy attack.

### Introduction

This measure is on Washington's November 5, 2019 General Election ballot as an amendment to the state constitution proposed by the Legislature. The Legislature passed this proposal during the 2019 session as Senate Joint Resolution (SJR) 8200 and referred it to a vote of the people.

It passed in the Senate on March 7, 2019 by a vote of 37 to 11, and in the House on April 17, 2019 by a vote of 91 to 7. The measure will not take effect, however, unless it is approved by a majority of the state's voters.

If passed in November, SJR 8200 would amend Section 42 of Article II of the Washington State Constitution to allow the Legislature to pass laws to temporarily fill certain vacant public offices in the event of a catastrophic incident.

It would also allow the Legislature to pass laws it determines are necessary to provide for continuity of state and local governmental operations, even if those laws are at odds with the state constitution if following the constitution would be impracticable or cause undue delay.

### The state's current emergency powers

Currently, Washington's Continuity of Government Act provides for maintaining emergency government and operations only in the event of a foreign attack against the United States that happens in the state of Washington. An "attack" under current law means any act of warfare taken by an enemy of the United States causing substantial damage or injury to persons or property in the state of Washington.

This measure would add "catastrophic incidents," such as earthquakes or tsunamis, to the Legislature's authority to provide for prompt and temporary succession to the powers and duties of public offices, and to enact other legislation as may be necessary.

During committee testimony, proponents of the amendment said that "current law restricts emergency planning to an enemy attack, but there are many other catastrophic incidents that may occur. The state needs to be better prepared for incidents like the Cascadia earthquake and have the ability to continue to operate at the state and county level during these emergency events."



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## Concern about misuse of new powers

One source of concern about the proposal is that the Legislature or the governor may abuse the meaning of “catastrophic incident” to exercise emergency powers when there is no emergency. The concern is based on the common practice of the Legislature to attach an “emergency” clause to routine bills in order to get around normal lawmaking safeguards.

## Conclusion

A “yes” vote on the measure would allow the Legislature to act in the case of a major natural disaster as well as an enemy attack. A “no” vote would retain the Legislature’s current authority to act only in cases of a clear enemy attack.

For the measure’s legislative history and to see which lawmakers voted “yes” and “no,” go to <https://www.washingtonvotes.org/Legislation.aspx?ID=182797>.

For general information on the legislature, visit WPC’s [WashingtonVotes.org](http://WashingtonVotes.org).

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