

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The text is centered within the hourglass.

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Report RL32405

*Utah Emergency Management and Homeland Security
Statutory Authorities Summarized*

Keith Bea, L. Cheryl Runyon, and Kae M. Warnock, Government and Finance Division

May 27, 2004

Abstract. This report is one of a series that profiles the emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified.

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Summary

The Utah Emergency Services and Homeland Security Act created the Division of Emergency Services and Homeland Security, outlined procedures for hazardous materials emergencies and search and rescue, and provided for mutual aid agreements. Financial support for emergency management activities is derived from federal grants, state matching money, and a state disaster trust fund. The Emergency Interim Succession Act provides for succession of powers of the governor, state officers and judges in emergencies. Other provisions allow the state and local seats of government to be relocated in an emergency.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

Contents

| | |
|---|---|
| Entities with Key Responsibilities | 1 |
| Preparedness | 2 |
| Declaration Procedures | 2 |
| Types of Assistance | 3 |
| Mutual Aid | 3 |
| Funding | 4 |
| Hazard Mitigation | 4 |
| Continuity of Government Operations | 5 |
| Other | 6 |
| Key Terms | 6 |
| For Further Research | 7 |

List of Tables

| | |
|---|---|
| Table 1. Key Emergency Management and Homeland Security Terms Defined in Utah Statutes, with Citations | 6 |
|---|---|

Utah Emergency Management and Homeland Security Statutory Authorities Summarized

Entities with Key Responsibilities

Governor: The governor is authorized to suspend the provisions of any order or rule of any state agency if strict compliance with the provisions would substantially prevent, hinder, or delay action necessary to respond to an emergency (Utah Code Ann. §63-5a-7). During a state of emergency, the governor may purchase or lease public or private property for public use including food and medical supplies, clothing, shelter, transportation, and other necessary goods. The statute provides that compensation be paid to the owner of property taken or used at the governor's direction (Utah Code Ann. §63-5a-8).

During a declared state of emergency, the governor is authorized to utilize all available resources; evacuate all or part of the population from any stricken or threatened area; suspend or limit the sale, distribution, or transportation of alcoholic beverages, explosives, and combustibles; control ingress and egress to and from a disaster area; and order debris and wreckage removal from publicly or privately owned land or water. The statute holds harmless the state government against any claim arising from the removal of debris and wreckage (Utah Code Ann. §63-5a-1 to 63-5a-3(1)).

Disaster Emergency Advisory Council: The council is charged with providing advice to the governor on matters relating to the state's emergency disaster response and recovery actions and activities. The council meets at the call of the governor, and is chaired by the commissioner of public safety (Utah Code Ann. §63-5-4).

Division of Emergency Services and Homeland Security: The division, created within the Department of Emergency Management, is headed by a director appointed by the commissioner of public safety with the approval of the governor. The director serves as the executive and administrative head of the division, and must be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law (Utah Code Ann. §53-2-103). The division implements policies set out by the governor and the legislature, and performs functions relating to emergency services and homeland security matters as directed by the commissioner. Staff of the division prepare plans to prevent and minimize injury and damage, provide for response and recovery, and identify areas vulnerable to disasters. In addition, the division is charged with coordinating hazard mitigation and other preventive and preparedness measures, providing assistance to local officials in the design of local emergency action plans, and coordinating federal,

state, and local emergency and search and rescue activities. The division may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist those organizations with the preparation of emergency succession plans and procedures (Utah Code Ann. §53-2-104).

Hazardous Chemical Emergency Response Commission: The commission must engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right-to-Know Act (Utah Code Ann. §53-1-106). The statute designates the commissioner of public safety and the executive director of the Department of Environmental Quality, or their designees, as members of the Hazardous Chemical Emergency Response Commission. The Department of Public Safety has primary responsibility for all emergency planning activities, and must prepare appropriate policies and procedures and make rules necessary for implementation of the act. The Department of Environmental Quality has primary responsibility for receiving, processing, and managing hazardous chemical information and notifications under the federal act (Utah Code Ann. §63-5-5).

Preparedness

See “Entities with Key Responsibilities,” *Division of Emergency Services and Homeland Security*.

Declaration Procedures

The governor may declare a state of emergency after proclamation of a local emergency if the governor finds a disaster has occurred or a disaster is imminent in any area where state government assistance is required to supplement local efforts. A state of emergency continues until the threat or danger has passed or the emergency conditions no longer exist. A declaration may continue for no longer than 30 days unless extended by joint resolution of the legislature, which may also terminate a state of emergency by joint resolution at any time. During the state of emergency the governor serves as commander-in-chief of the military forces of the state (Utah Code Ann. §63-5a-5).

A local emergency may be declared by proclamation of the principal executive officer of a political subdivision, and may not be continued or renewed for a period in excess of 30 days without the consent of the governing body of the political subdivision. The declaration may be used as the basis for requesting and obtaining state or federal government disaster assistance, and activates the response and recovery aspects of all applicable local disaster emergency plans (Utah Code Ann. §63-5a-6).

The governor may declare a state of energy emergency when an existing or imminent severe disruption or shortage in the supply of one or more energy resources threatens the availability of essential services, transportation, or the operation of the economy. Such a declaration requires the consent of the legislature or the advice of the Legislative Management Committee and continues for 60 days unless rescinded by the governor. A second proclamation issued within 30 days of the expiration of

the first for the same emergency is considered a renewal or extension. A proclamation may be renewed or extended only by joint resolution of the legislature (Utah Code Ann. §63-53a-6).

Types of Assistance

The statute created the Search and Rescue Financial Assistance Program within the Division of Emergency Services and Homeland Security. The program is funded by voluntary contributions for search and rescue operations, search and rescue surcharges, and appropriations made by the legislature. Monies given to counties for all or a portion of reimbursable expenses for search and rescue operations are subject to approval by the Search and Rescue Advisory Board. Funds may not be used to reimburse paid personnel costs (Utah Code Ann. §53-2-107). The statute also created the Search and Rescue Advisory Board and specified board membership, term, and compensation or per diem reimbursement (Utah Code Ann. §53-2-108).

Applications for reimbursement of eligible expenses for county search and rescue operations must be submitted to the board, which is authorized to determine the amount of reimbursement. The board maintains key search and rescue statistical data from each county and disburses funds to eligible applicants until program monies are depleted in that fiscal year (Utah Code Ann. §53-2-109).

During a presidentially declared state of emergency, the governor is authorized to enter into agreement with any agency of the United States for temporary housing units to be occupied by disaster victims. The governor may help any political subdivision acquire necessary sites and utilities by passing through any federal funds and may temporarily suspend or modify any public health, safety, zoning, transportation or other requirement of the law or regulation if such action is essential to provide temporary housing for disaster victims (Utah Code Ann. §63-5a-3 (2)(a-c)).

The governor is authorized to accept federal funds for individual or family expenses or serious needs that cannot be otherwise adequately met by other means of assistance (Utah Code Ann. §63-5a-3 (2)(f)).

Mutual Aid

The Emergency Management Assistance Compact is codified (Utah Code Ann. §53-2-202). The Department of Public Safety is authorized to implement the provisions of EMAC (Utah Code Ann. §53-1-106).

The governor is authorized to execute a compact on behalf of the state with any one or more of the states and the District of Columbia (Utah Code Ann. §39-5-1).

The governor is authorized to execute an interstate agreement or compact with any other state or states, only concerning matters relating to a disaster affecting or likely to affect the state. The agreement continues in force until legislative or gubernatorial action is taken to withdraw. Political subdivisions are authorized to enter into mutual aid compacts with other political subdivisions for cooperative

disaster response and recovery assistance support (Utah Code Ann. §63-5a-9).

The Western Interstate Nuclear Compact is codified (Utah Code Ann. §63-41).

Funding

The director of the Division of Emergency Services and Homeland Security may recover expenses from persons whose negligent actions caused a hazardous materials emergency. If the cost directly associated with an emergency response exceeds all available funds within a fiscal year, the division may, with approval from the governor, incur a deficit in its line item budget. The legislature must subsequently provide a supplemental appropriation to cover the deficit. Any political subdivision may enact local ordinances to provide for the recovery of expenses (Utah Code Ann. §53-2-105).

The director of the division may use disaster response and recovery funds to provide: transportation to and from a disaster scene; accommodations at the disaster scene; and emergency purchase of response equipment and supplies in direct support of a disaster. Funds may not be allocated to a political subdivision unless the situation exceeds its capability to respond to the disaster and no other resources are available (Utah Code Ann. §53-2-106).

During a declared disaster the governor is authorized to apply to the federal government for aid on behalf of a local government if it has demonstrated a need for financial assistance in order to perform its governmental functions. The governor may recommend cancellation of all or any part of a repayment when a unit of local government is unable to meet operating expenses. The amount included on such an application is limited to 25% of the annual operating budget of the political subdivision for the fiscal year (Utah Code Ann. §63-5a-3 (2)(d)).

Hazard Mitigation

The statute created the Utah Seismic Safety Commission to review earthquake-related hazards and risks. The Commission prepares and prioritizes recommendations to identify and mitigate the hazards and risks, provide information to individuals and groups concerned with earthquake safety, and promote earthquake loss reduction measures. The commission may accept contributions from other private or public sources and seek grants or funding from the federal government for uses relating to seismic safety (Utah Code Ann. §63C-6-101 to 102).

With the approval of the chairman of the Disaster Emergency Advisory Council, the state engineer may exercise emergency powers when any reservoir or stream has reached or will reach a level far enough above average and in excess of capacity that the public safety is, or is likely to be, endangered. The emergency powers consist of the authority to control stream flow and reservoir storage or release. Also, the state engineer is authorized to control the stream flow and reservoir storage or releases, assist counties in emergency flood mitigation on intercounty waterways under certain conditions; assist counties in emergency flood mitigation planning decisions; furnish

technical services; make recommendations; and act as the final decision-making authority on related matters (Utah Code Ann. §73-2-22, 23).

Continuity of Government Operations

The Emergency Interim Succession Act provides for a line of emergency interim successors to the governor (Utah Code Ann. §63-5b-101).

The statute authorizes each state officer to designate three qualified emergency interim successors from within his department who meet any constitutional qualifications for the office, and to specify their order of succession. If any state officer or the deputy is unavailable following a disaster, a designated emergency interim successor shall exercise the powers and duties of the office (Utah Code Ann. §63-5b-202).

The Division of Emergency Services and Homeland Security may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist in preparing emergency succession plans and procedures (Utah Code Ann. §63-5b-301).

If the governor (or interim successor) declares a state of emergency, the legislature shall be called into session as soon as practicable. If the governor or successor determines that the prescribed place of session is unsafe he may change the place of session to any place in the state (Utah Code Ann. §63-5b-302).

Persons authorized to act as governor, emergency interim successors, and special emergency judges, exercise the powers and duties of the office to which they succeed only when a disaster has occurred (Utah Code Ann. §63-5b-502).

The governor may declare an emergency temporary location for the seat of government whenever it becomes imprudent, inexpedient, or impossible to conduct the affairs of the state government at the regular location due to an emergency resulting from the effects of a disaster (Utah Code Ann. §63-5b-601).

When state and local government operations are seriously disrupted as a result of natural or man-made disaster, or by enemy attack, the legislature may provide for temporary succession to the powers and duties of any elected or appointed public office. The legislature may adopt measures to insure the continuity of governmental operations including, but not limited to, financing (Utah Constitution, Article VI, Section 30).

Other

The department of health must develop and implement, in cooperation with appropriate state, federal, and local agencies, plans to provide emergency medical services during times of disaster or emergency (Utah Code Ann. §26-8a-204).

The Department of Health is charged with ascertaining whether illnesses or conditions are caused by bioterrorism or other actions, and investigates all cases for sources of infection or exposure. The department must close, evacuate, or decontaminate any facility that may endanger the public health due to a condition or illness (Utah Code Ann. §26-23b-108).

The statute grants immunity from civil liability to any person owning or controlling real estate or other premises who voluntarily, without compensation, allows property to be used to shelter persons during an actual, impending, mock or practice attack (Utah Code Ann. §39-5-3).

Key Terms

Table 1. Key Emergency Management and Homeland Security Terms Defined in Utah Statutes, with Citations

| Terms | Citations |
|-------------------------------|---|
| Attack | Utah Code Ann. §53-2-102 (1), §63-5-2 (2), §63-5a-2 (2), §63-5b-102 (2) |
| Bioterrorism | Utah Code Ann. §26-23b-102 (1) |
| Disaster | Utah Code Ann. §53-2-102(3), §63-5-2 (1), §63-5a-2 (1), §63-5b-102 (4) |
| Emergency interim successor | Utah Code Ann. §63-5b-102 (6) |
| Epidemic or pandemic disease | Utah Code Ann. §26-23b-102 (4) |
| Hazardous materials emergency | Utah Code Ann. §53-2-102 (6) |
| Internal disturbance | Utah Code Ann. §53-2-102 (7), §63-5a-2 (3) |
| Local emergency | Utah Code Ann. §63-5a-2 (7) |
| Natural phenomena | Utah Code Ann. §63-5-2 (4), §53-2-102 (8) |
| Natural phenomenon | Utah Code Ann. §63-5a-2 (4), §63-5b-102 (9) |
| Public health emergency | Utah Code Ann. §26-23b-102 (6) |

| Terms | Citations |
|----------------------|---|
| State of emergency | Utah Code Ann. §53-2-102 (9), §63-5a-2 (6) |
| Technological hazard | Utah Code Ann. §53-2-102 (10), §63-5-2 (5), §63-5a-2 (5), §63-5b-102 (15) |

For Further Research

The citations noted above and other elements of the state code for Utah may be searched at: [http://www.le.state.ut.us/Documents/code_const.htm].