

Part 8 Emergency Interim Succession Act

53-2a-801 Title.

This part is known as the "Emergency Interim Succession Act."

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-802 Definitions.

- (1)
 - (a) "Absent" means:
 - (i) not physically present or not able to be communicated with for 48 hours; or
 - (ii) for local government officers, as defined by local ordinances.
 - (b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.
- (2) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of Commerce, the Department of Heritage and Arts, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Technology Services, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the State Board of Regents, the Utah Housing Corporation, the Workers' Compensation Fund, the State Retirement Board, and each institution of higher education within the system of higher education.
- (3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.
- (4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.
- (5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.
- (6)
 - (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.
 - (b) "Office" does not include the office of governor or the legislative or judicial offices.
- (7) "Place of governance" means the physical location where the powers of an office are being exercised.
- (8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.
- (9) "Political subdivision officer" means a person holding an office in a political subdivision.
- (10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.
- (11) "Unavailable" means:

- (a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or
- (b) as otherwise defined by local ordinance.

Amended by Chapter 352, 2015 General Session

53-2a-803 Emergency interim successor to office of governor.

- (1) If the governor is unavailable, and if the lieutenant governor, president of the Senate, and the speaker of the House of Representatives are unavailable to exercise the powers and duties of the office of governor, the attorney general, state auditor, or state treasurer shall, in the order named, exercise the powers and duties of the office of governor until:
 - (a) the governor, lieutenant governor, president of the Senate, or speaker of the House of Representatives becomes available; or
 - (b) a new governor is elected and qualified.
- (2) Notwithstanding the provisions of Subsection (1), no emergency interim successor to the lieutenant governor, president of the Senate, speaker of the House of Representatives, attorney general, state auditor, or state treasurer may serve as governor.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-804 Emergency interim successors for state officers.

- (1) By July 1 of each year, each state officer shall:
 - (a) designate three qualified emergency interim successors from within the state officer's department who meet the constitutional qualifications for the office, if any;
 - (b) specify their order of succession;
 - (c) provide a list of those designated successors to the division; and
 - (d) notify emergency interim successors within 30 days of designation.
- (2)
 - (a) If any state officer is unavailable following a disaster, and if the state officer's deputy, if any, is also unavailable, a designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession specified by the state officer.
 - (b) An emergency interim successor other than the attorney general, state auditor, or state treasurer shall exercise the state officer's powers and duties only until:
 - (i) the person exercising the powers and duties of the office of governor appoints a successor to fill the vacancy;
 - (ii) a permanent successor is appointed or elected and qualified as provided by law; or
 - (iii) the state officer, the state officer's deputy, or an emergency interim successor earlier in the order of succession becomes available to exercise or resume the exercise of the powers and duties of the office.
 - (c) An emergency interim successor of the attorney general, state auditor, or state treasurer shall exercise the powers and duties of those offices only until:
 - (i) a permanent successor is appointed or elected and qualified as provided by law; or
 - (ii) the attorney general, state auditor, or state treasurer, their deputy, or an emergency interim successor earlier in the order of succession becomes available to exercise or resume the exercise of the powers and duties of the office.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-805 Division to consult with legislative and judicial branch.

The Division of Emergency Management may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist the division in preparing emergency succession plans and procedures.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-806 Place of legislative session.

- (1) If the governor or the governor's interim successor declares a state of emergency or finds that a state of emergency is imminent, and the governor or the interim successor determines that the prescribed place of session is unsafe, the governor may change the place of session to any place in Utah that the governor considers safe and convenient.
- (2) Each legislator shall proceed to the place of session as expeditiously as practicable.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-807 Emergency interim successors for local officers.

- (1) By July 1 of each year, each political subdivision officer shall:
 - (a) designate three emergency interim successors;
 - (b) specify their order of succession; and
 - (c) provide a list of those designated successors to the division.
- (2) In the event that a political subdivision does not designate emergency interim successors as required under Subsection (1), the order of succession shall be as follows:
 - (a) the chief executive officer of the political subdivision;
 - (b) the chief deputy executive officer of the political subdivision;
 - (c) the chair of the legislative body of the political subdivision; and
 - (d) the chief law enforcement officer of the political subdivision.
- (3)
 - (a) Notwithstanding any other provision of law:
 - (i) if any political subdivision officer or the political subdivision officer's legal deputy, if any, is unavailable, a designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession specified by the political subdivision officer; or
 - (ii) counties may provide by ordinance that one member of the county legislative body may act as the county legislative body if the other members are absent.
 - (b) An emergency interim successor shall exercise the powers and duties of the office only until:
 - (i) the vacancy is filled in accordance with the constitution or statutes; or
 - (ii) the political subdivision officer, the political subdivision officer's deputy, or an emergency interim successor earlier in the order of succession becomes available to exercise the powers and duties of the office.
- (4) The legislative bodies of each political subdivision may enact resolutions or ordinances consistent with this part and also provide for emergency interim successors to officers of the political subdivision not governed by this section.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-808 Formalities of taking office.

- (1) At the time that they are appointed as emergency interim successors or special emergency judges, emergency interim successors and special emergency judges shall sign prospectively whatever oath is required to enable them to exercise the powers and duties of the office to which they may succeed.
- (2) Notwithstanding any other provision of law, no person is required to comply with any other provision of law relative to taking office as a prerequisite to the exercise of the powers or discharge of the duties of an office to which the person succeeds.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-809 Period in which authority may be exercised.

- (1) Persons authorized to act as governor, emergency interim successors, and special emergency judges shall exercise the powers and duties of the office to which they succeed only when a disaster has occurred.
- (2)
 - (a) Emergency interim successors serve for 30 days after the date the governor or the governor's emergency successor calls the Legislature into special session, unless the unavailability of the elected official ends or an emergency interim successor earlier in the order of succession becomes available before expiration of the 30-day period.
 - (b) Notwithstanding the provisions of Subsection (2)(a), if the emergency interim successor is serving for a legislator who is killed or resigns, the emergency interim successor shall serve until the legislator's legal replacement is sworn in.
- (3) The Legislature, by concurrent resolution, may:
 - (a) terminate the authority of any or all emergency interim successors and special emergency judges to exercise the powers and duties of their office at any time; and
 - (b) extend the time during which any or all emergency interim successors and special emergency judges may exercise the powers and duties of their office.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-810 Removal of designees.

Until the persons designated as emergency interim successors or special emergency judges succeed to the exercise of the powers and duties of an office, they shall serve as emergency interim successors or special emergency judges at the pleasure of the designating authority and may be removed and replaced by the designating authority at any time, with or without cause.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-811 Disputes.

Except for factual disputes concerning the office of governor, the governor shall adjudicate any dispute concerning a question of fact arising under this part concerning a state officer. The governor's decision is final.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-812 Governor to declare location of emergency seat of government.

- (1) Whenever, due to an emergency resulting from the effects of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the affairs of the state government in Salt Lake City, Utah, the governor shall:
 - (a) by proclamation, declare an emergency temporary location for the seat of government in Utah; and
 - (b) take whatever action and issue whatever orders are necessary for an orderly transition of the affairs of the state government to that emergency temporary location.
- (2) That emergency temporary location shall remain as the seat of government until the Legislature establishes a new location by law, or until the emergency is declared to be ended by the governor and the seat of government is returned to its normal location.
- (3) Local governments may provide, by ordinance, for temporary emergency locations for the seat of government.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-813 Official acts at emergency seat of government -- Validity.

During the time when the seat of government remains at an emergency location, all official acts required by law to be performed at the seat of government by any officer, agency, department, or authority of this state or local government, including the convening and meeting of the Legislature in regular, extraordinary, or emergency session, shall be as valid and binding as when performed at the normal location of the seat of government.

Renumbered and Amended by Chapter 295, 2013 General Session