

**PUBLIC SAFETY - DIVISION NAME CHANGE**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: DeMar Bud Bowman**

**This act modifies the Public Safety Code and provisions of the code related to disaster response and recovery and resource development by changing the title of the Comprehensive Emergency Management Act to the Emergency Services and Homeland Security Act, and renaming the division created by the act as the Division of Emergency Services and Homeland Security. The act also makes related amendments throughout the code to reflect this change.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**19-3-112**, as renumbered and amended by Chapter 112, Laws of Utah 1991

**53-1-104**, as last amended by Chapters 263 and 343, Laws of Utah 1998

**53-2-101**, as last amended by Chapter 42, Laws of Utah 2001

**53-2-102**, as last amended by Chapter 42, Laws of Utah 2001

**53-2-103**, as enacted by Chapter 234, Laws of Utah 1993

**53-2-104**, as last amended by Chapter 42, Laws of Utah 2001

**53-2-108**, as enacted by Chapter 281, Laws of Utah 1997

**53-12-201**, as enacted by Chapter 343, Laws of Utah 1998

**63-5-4**, as last amended by Chapter 82, Laws of Utah 1997

**63-5a-8**, as last amended by Chapter 166, Laws of Utah 1989

**63-5b-102**, as last amended by Chapter 222, Laws of Utah 2000

**63-5b-301**, as enacted by Chapter 294, Laws of Utah 1992

**63-28a-3**, as last amended by Chapter 82, Laws of Utah 1997

**63C-6-101**, as last amended by Chapter 42, Laws of Utah 2000

**63C-6-104**, as last amended by Chapter 42, Laws of Utah 2000

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **19-3-112** is amended to read:

**19-3-112. Notification by the department to certain persons of release of radiation from Nevada Test Site -- Notification to certain news outlets.**

(1) When informed by the United States Department of Energy of any release of radiation exceeding the Nuclear Regulatory Commission's limits for unrestricted use in air or water from the Nevada Test Site which is detected outside its boundaries, the department shall, unless prohibited by federal law, immediately convey to the persons specified in Subsection (2) all information that is made available to it, including:

- (a) the date;
- (b) the time and duration of each release of radiation;
- (c) estimates of total amounts of radiation released;
- (d) the types and amounts of each isotope detected off-site;
- (e) the locations of monitoring stations detecting off-site radiation; and
- (f) current and projected wind direction, wind velocity, and precipitation for the region.

(2) Unless prohibited by federal law, the department shall provide the information required under Subsection (1) to the following:

- (a) members of the Utah congressional delegation or their designated representatives;
- (b) the director of the Division of [~~Comprehensive Emergency Management~~] Emergency Services and Homeland Security;

- (c) the attorney general;
- (d) the regional director of the Federal Emergency Management Agency;
- (e) the regional director of the National Oceanic and Atmospheric Administration;
- (f) the executive director of the Utah League of Cities and Towns;
- (g) the executive director of the Department of Health; and
- (h) the chairpersons of the county commissions of affected counties.

(3) If the state is informed by the United States Department of Energy that any radiation released from the Nevada Test Site has been detected by the United States Department of Energy or United States Environmental Protection Agency or the department within the boundaries of the state of Utah, the department shall, unless prohibited by federal law, immediately provide all information

available to it as specified in Subsection (1) to the Associated Press and United Press International outlets in the state.

Section 2. Section **53-1-104** is amended to read:

**53-1-104. Boards, bureaus, councils, divisions, and offices.**

(1) The following are the policymaking boards within the department:

- (a) the Driver License Medical Advisory Board, created in Section 53-3-303;
- (b) the Concealed Weapon Review Board, created in Section 53-5-703;
- (c) the Utah Fire Prevention Board, created in Section 53-7-203;
- (d) the Liquified Petroleum Gas Board, created in Section 53-7-304; and
- (e) the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.

(2) The following are the councils within the department:

- (a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and
- (b) the Motor Vehicle Safety Inspection Advisory Council, created in Section 53-8-203.

(3) The following are the divisions within the department:

- (a) the Administrative Services Division, created in Section 53-1-203;
- (b) the Management Information Services Division, created in Section 53-1-303;
- (c) the [~~Comprehensive Emergency Management~~] Division of Emergency Services and

Homeland Security, created in Section 53-2-103;

(d) the Driver License Division, created in Section 53-3-103;

(e) the Criminal Investigations and Technical Services Division, created in Section 53-10-103;

(f) the Peace Officers Standards and Training Division, created in Section 53-6-103;

(g) the State Fire Marshal Division, created in Section 53-7-103; and

(h) the Utah Highway Patrol Division, created in Section 53-8-103.

(4) The Office of Executive Protection is created in Section 53-1-112.

(5) The following are bureaus within the department:

(a) Bureau of Criminal Identification, created in Section 53-10-201;

(b) Criminal Investigations Bureau, created in Section 53-10-301;

- (c) Bureau of Forensic Services, created in Section 53-10-401; and
- (d) Bureau of Communications, created in Section 53-10-501.
- (6) The State Olympic Public Safety Command is created within the department by Section 53-12-201.

Section 3. Section **53-2-101** is amended to read:

**Part 1. Emergency Services and Homeland Security Act**

**53-2-101. Title.**

This part is known as the "[~~Comprehensive Emergency Management~~] Emergency Services and Homeland Security Act."

Section 4. Section **53-2-102** is amended to read:

**53-2-102. Definitions.**

As used in this part:

- (1) "Attack" means a nuclear, conventional, biological, or chemical warfare action against the United States of America or this state.
- (2) "Disaster" means a situation causing, or threatening to cause, widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomena, or technological hazard.
- (3) "Director" means the division director appointed under Section 53-2-103.
- (4) "Division" means the [~~Comprehensive Emergency Management~~] Division of Emergency Services and Homeland Security created in Section 53-2-103.
- (5) "Expenses" means actual labor costs of government and volunteer personnel, including workers compensation benefits, fringe benefits, administrative overhead, cost of equipment, cost of equipment operation, cost of materials, and the cost of any contract labor and materials.
- (6) "Hazardous materials emergency" means a sudden and unexpected release of any substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.
- (7) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

(8) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, or epidemic.

(9) "State of emergency" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, and safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

(10) "Technological hazard" means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

Section 5. Section **53-2-103** is amended to read:

**53-2-103. Division of Emergency Services and Homeland Security -- Creation -- Director -- Appointment -- Term -- Compensation.**

(1) There is created within the department the [~~Comprehensive Emergency Management~~] Division of Emergency Services and Homeland Security.

(2) The division shall be administered by a director appointed by the commissioner with the approval of the governor.

(3) The director is the executive and administrative head of the division and shall be experienced in administration and possess additional qualifications as determined by the commissioner and as provided by law.

(4) The director acts under the supervision and control of the commissioner and may be removed from his position at the will of the commissioner.

(5) The director shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Section 6. Section **53-2-104** is amended to read:

**53-2-104. Division duties -- Powers.**

(1) The division shall:

(a) respond to the policies of the governor and the Legislature;

(b) perform functions relating to [~~comprehensive emergency management~~] emergency services and homeland security matters as directed by the commissioner;

- (c) prepare, implement, and maintain programs and plans to provide for:
  - (i) prevention and minimization of injury and damage caused by disasters;
  - (ii) prompt and effective response to and recovery from disasters;
  - (iii) identification of areas particularly vulnerable to disasters;
  - (iv) coordination of hazard mitigation and other preventive and preparedness measures designed to eliminate or reduce disasters;
  - (v) assistance to local officials in designing local emergency action plans;
  - (vi) coordination of federal, state, and local emergency activities;
  - (vii) coordination of emergency operations plans with emergency plans of the federal government;
  - (viii) coordination of search and rescue activities;
  - (ix) coordination of rapid and efficient communications in times of emergency; and
  - (x) other measures necessary, incidental, or appropriate to this part.

(2) The division may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist them in preparing emergency succession plans and procedures under Title 63, Chapter 5b, Emergency Interim Succession Act.

Section 7. Section **53-2-108** is amended to read:

**53-2-108. Search and Rescue Advisory Board -- Members -- Compensation.**

(1) There is created the Search and Rescue Advisory Board consisting of seven members appointed as follows:

(a) two representatives designated by the Utah Search and Rescue Association, one of whom is from a county with a population of 75,000 or more; and one from a county having a population of less than 75,000;

(b) three representatives designated by the Utah Sheriff's Association, at least one of whom shall be a member of a voluntary search and rescue unit operating in the state, at least one of whom shall be from a county having a population of 75,000 or more, and at least one of whom shall be from a county having a population of less than 75,000;

(c) one representative of the Division of [~~Comprehensive Emergency Management~~]

Emergency Services and Homeland Security designated by the director; and

(d) one private citizen appointed by the governor with the advice and consent of the Senate.

(2) (a) The term of each member of the board is four years.

(b) A member may be reappointed to one successive term.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) A member resigning from the board shall serve until a successor is appointed and qualified.

(3) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and travel expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 8. Section **53-12-201** is amended to read:

**53-12-201. State Olympic Public Safety Command -- Creation -- Membership -- Chair -- Quorum -- Compensation.**

(1) (a) There is created within the department the "State Olympic Public Safety Command" consisting of the following members:

(i) the commissioner;

(ii) the Deputy Adjutant General of the Utah National Guard;

(iii) the chief law enforcement officer of each of the following:

(A) Salt Lake City Police Department;

(B) Salt Lake County Sheriff's Office;

(C) Summit County Sheriff's Office;

(D) University of Utah Police Department;

(E) Weber County Sheriff's Office;

(F) West Valley City Police Department;

(G) Wasatch County Sheriff's Office;

(H) Provo City Police Department; and

- (I) Ogden City Police Department;
- (iv) as determined by the Park City Council, either the:
  - (A) chief law enforcement officer of the Park City Police Department; or
  - (B) Olympics services director of the Park City Public Safety Department;
- (v) the local special agents-in-charge of the Federal Bureau of Investigation;
- (vi) the security director of the organizing committee;
- (vii) the Olympic Coordinator for the [~~Comprehensive Emergency Management~~] Division of Emergency Services and Homeland Security;
- (viii) one individual to represent public works appointed by the commander based on recommendations received as follows:
  - (A) the Utah Association of Counties shall recommend an individual;
  - (B) the Utah League of Cities and Towns shall recommend an individual; and
  - (C) the recommendations made under Subsections (1)(a)(viii)(A) and (B) shall be from municipalities and counties in which an Olympic venue is located;
- (ix) two individuals appointed by the Utah State Fire Chiefs Association, as follows:
  - (A) one representing fire services; and
  - (B) one representing emergency medical services; and
- (x) any other member appointed by the command with the concurrence of the governor based on a finding of the command that the member is important to the planning process of the Olympics.
  - (b) (i) A member appointed under Subsections (1)(a)(i) through (vii) is an ex officio member.
  - (ii) All members of the command are voting members.
- (2) (a) The commissioner as the commander appointed under Section 53-12-301 shall serve as chair of the command and call all necessary meetings.
  - (b) A [~~vice-commander~~] vice commander shall be elected by the command.
- (3) A majority of the members constitutes a quorum for the transaction of business. The action of a majority of a quorum constitutes the action of the command.
- (4) The Utah Attorney General's Office shall provide legal counsel for the command.
- (5) (a) (i) A state government member who does not receive salary, per diem, or expenses

from the state for the member's service may receive per diem and expenses incurred in the performance of the member's official duties as a member of the command at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A state government member who is a member because of the member's state government position may not receive per diem or expenses for the member's service.

(iii) A state government member may decline to receive per diem and expenses for the member's service.

(b) (i) A local government member who does not receive salary, per diem, or expenses from the entity that the member represents for the member's service may receive per diem and expenses incurred in the performance of the member's official duties as a member of the command at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A local government member may decline to receive per diem and expenses for the member's service.

Section 9. Section **63-5-4** is amended to read:

**63-5-4. Disaster Emergency Advisory Council created -- Function -- Composition -- Expenses.**

(1) A Disaster Emergency Advisory Council is created to provide advice to the governor on matters relating to state government emergency disaster response and recovery actions and activities.

(2) The council shall meet at the call of the governor.

(3) The Disaster Emergency Advisory Council comprises the:

(a) lieutenant governor;

(b) attorney general;

(c) president of the Senate;

(d) speaker of the House of Representatives;

(e) heads of the following state agencies:

(i) Public Safety;

(ii) Division of [~~Comprehensive Emergency Management~~] Emergency Services and Homeland Security;

- (iii) Building Board; and
- (iv) Office of Planning and Budget;
- (f) executive directors of the following departments:
  - (i) Transportation;
  - (ii) Human Services;
  - (iii) Health;
  - (iv) Environmental Quality;
  - (v) Community and Economic Development; and
  - (vi) Natural Resources;
- (g) representative of the National Guard appointed by the governor with the advice and consent of the Senate;
- (h) commissioner of agriculture and food;
- (i) state planning coordinator; and
- (j) representatives from two statewide, nongovernmental service organizations appointed by the governor with the advice and consent of the Senate.

(4) The commissioner of Public Safety shall serve as the chair of the council.

(5) (a) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the council at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(b) Legislators on the committee shall receive compensation and expenses as provided by law and legislative rule.

Section 10. Section **63-5a-8** is amended to read:

**63-5a-8. Acquisition of property for public use -- Compensation of owners.**

(1) (a) Upon proclamation of a state of emergency, the governor may purchase or lease public or private property for public use including:

- (i) food and medical supplies;
- (ii) clothing;
- (iii) shelter;
- (iv) means of transportation;
- (v) fuels;
- (vi) oils; or
- (vii) buildings or lands.

(b) The governor may not purchase private home storage nor privately owned arms.

(2) (a) The governor may use property purchased under authority of this section for any purpose to meet the needs of an emergency, including its use to relieve want, distress, and disease.

(b) Any property used by the governor to meet the needs of an emergency is a public use.

(3) (a) The governor shall compensate the owner of property taken or used under authority of this section by complying with the procedures established in Title 78, Chapter 34, Eminent Domain.

(b) The governor shall pay for those purchases or leases from the funds available to the Division of [~~Comprehensive Emergency Management~~] Emergency Services and Homeland Security under this [~~act~~] chapter.

(4) Nothing in this section applies to or authorizes compensation for the destruction or damage of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

Section 11. Section **63-5b-102** is amended to read:

**63-5b-102. 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) "Attack" means a nuclear, conventional, biological, or chemical warfare action against the United States of America or this state.

(3) "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 Community and Economic Development, 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 Transportation, any other major administrative subdivisions of state government, the State Board of Education, the State Board of Regents, the Utah Housing Finance Agency, the Utah Technology Finance Corporation, the Workers' Compensation Fund, the State Retirement Board, and each institution of higher education within the system of higher education.

(4) "Disaster" means a situation causing, or threatening to cause, widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomenon, or technological hazard.

(5) "Division" means the [~~Comprehensive Emergency Management~~] Division of Emergency Services and Homeland Security established in Title 53, Chapter 2, [~~Comprehensive Emergency Management~~] Emergency Services and Homeland Security Act.

(6) "Emergency interim successor" means a person designated by this chapter 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.

(7) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

(9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

(10) (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.

(11) "Place of governance" means the physical location where the powers of an office are being exercised.

(12) "Political subdivision" includes counties, cities, towns, townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(13) "Political subdivision officer" means a person holding an office in a political subdivision.

(14) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(15) "Technological hazard" means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

(16) "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.

Section 12. Section **63-5b-301** is amended to read:

**63-5b-301. Division to consult with legislative and judicial branch.**

The Division of [~~Comprehensive Emergency Management~~] Emergency Services and Homeland Security may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist them in preparing emergency succession plans and procedures.

Section 13. Section **63-28a-3** is amended to read:

**63-28a-3. Membership -- Terms -- Chair -- Expenses.**

(1) Membership of the RDCC shall include the state science advisor and representatives of

the following departments and divisions:

- (a) Department of Agriculture and Food;
- (b) Department of Community and Economic Development;
- (c) Department of Environmental Quality;
- (d) Department of Natural Resources;
- (e) Department of Transportation;
- (f) Division of Business and Economic Development;
- (g) Division of Community Development;
- (h) Division of State History;
- (i) Division of Air Quality;
- (j) Division of Drinking Water;
- (k) Division of Environmental Response and Remediation;
- (l) Division of Radiation;
- (m) Division of Solid and Hazardous Waste;
- (n) Division of Water Quality;
- (o) Division of Oil, Gas, and Mining;
- (p) Division of Parks and Recreation;
- (q) Division of Forestry, Fire and State Lands;
- (r) Utah Geological Survey;
- (s) Division of Water Resources;
- (t) Division of Water Rights;
- (u) Division of Wildlife Resources;
- (v) School and Institutional Trust Lands Administration;
- (w) Division of Facilities Construction and Management; and
- (x) Division of [~~Comprehensive Emergency Management~~] Emergency Services and Homeland Security.

(2) (a) Additional members may be added as considered appropriate by a majority vote of RDCC members with the concurrence of the state planning coordinator.

(b) Terms of additional members shall be four-years each, adjusted to ensure that the terms are staggered so that approximately half of the additional members are appointed every two years.

(3) A chair shall be selected by a majority vote of RDCC members with the concurrence of the state planning coordinator.

(4) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the council at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

Section 14. Section **63C-6-101** is amended to read:

**63C-6-101. Creation of commission -- Membership -- Appointment -- Vacancies.**

(1) There is created the Utah Seismic Safety Commission consisting of 15 members, designated as follows:

(a) the director of the Division of [~~Comprehensive Emergency Management~~] Emergency Services and Homeland Security or his designee;

(b) the director of the Utah Geological Survey or his designee;

(c) the director of the University of Utah Seismograph Stations or his designee;

(d) the executive director of the Utah League of Cities and Towns or his designee;

(e) a representative from the Structural Engineers Association of Utah biannually selected by its membership;

(f) the director of the Division of Facilities and Construction Management or his designee;

(g) the executive director of the Department of Transportation or his designee;

- (h) the State Planning Coordinator or his designee;
  - (i) a representative from the American Institute of Architects, Utah Section;
  - (j) a representative from the American Society of Civil Engineers, Utah Section;
  - (k) a member of the House of Representatives appointed biannually by the speaker of the House;
  - (l) a member of the Senate appointed biannually by the president of the Senate;
  - (m) the commissioner of the Department of Insurance or his designee;
  - (n) a representative from the Association of Contingency Planners, Utah Chapter, biannually selected by its membership; and
  - (o) a representative from the American Public Works Association, Utah Chapter, biannually selected by its membership.
- (2) The commission shall annually select one of its members to serve as chair of the commission.
- (3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

Section 15. Section **63C-6-104** is amended to read:

**63C-6-104. Staffing and appropriated funds.**

- (1) Staff support to the commission shall be provided by the Division of [~~Comprehensive Emergency Management~~] Emergency Services and Homeland Security and the Utah Geological Survey.
- (2) Monies not expended by the Utah Seismic Safety Commission during a fiscal year are nonlapsing except that any balance of General Fund monies greater than \$10,000 lapses to the General Fund.