

1 **EMERGENCY MANAGEMENT FUNDING AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis Oda**

5 Senate Sponsor: Deidre M. Henderson

6 Cosponsor: Val L. Peterson

7

LONG TITLE

8 **General Description:**

9 This bill amends provisions related to the Disaster Recovery Funding Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies definitions;
- 13 ▶ provides that the Division of Emergency Management may expend money, subject
- 14 to appropriation by the Legislature, deposited in the fund for expenses incurred by
- 15 the National Guard in certain circumstances;
- 16 ▶ amends provisions authorizing the division to expend or commit money in the fund
- 17 for expenditures necessary in response to a disaster; and
- 18 ▶ makes technical corrections.

19 **Money Appropriated in this Bill:**

20 This bill appropriates in fiscal year 2014:

- 21 ▶ to the Division of Public Safety - Division of Emergency Management - National
- 22 Guard Response as a one-time appropriation:
- 23 • from State Disaster Recovery Restricted Account, One-time, \$150,000.

24 **Other Special Clauses:**

25 This bill takes effect on July 1, 2013.

26a **↔ This bill coordinates with H.B. 302, Emergency Response Amendments, by providing**
26b **substantive and technical corrections. ↔**



27 **Utah Code Sections Affected:**

28 AMENDS:

29 **53-2-402**, as last amended by Laws of Utah 2009, Chapter 77

30 **53-2-403**, as last amended by Laws of Utah 2011, Chapter 342

31 **53-2-404 (Effective 05/01/13)**, as last amended by Laws of Utah 2012, Chapter 347

32 **53-2-406**, as last amended by Laws of Utah 2010, Chapters 323 and 370

33 **63J-1-602.3**, as last amended by Laws of Utah 2012, Chapters 71, 341, and 398

33a **H→ Utah Code Sections Affected by Coordination Clause:**

33b **53-2-404, (Effective 05/01/13), as last amended by Laws of Utah 2012, Chapter 347**

33c **63J-1-602.3, as last amended by Laws of Utah 2012, Chapters 71, 341, and 398 ←H**



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

36 Section 1. Section **53-2-402** is amended to read:

37 **53-2-402. Definitions.**

38 (1) Unless otherwise defined in this section, the terms defined in Part 1, Homeland
39 Security Act, shall have the same meaning for this part.

40 (2) As used in this part:

41 (a) "Declared disaster" means one or more events:

42 (i) within the state;

43 (ii) that occur within a limited period of time;

44 (iii) that involve:

45 (A) a significant number of persons being at risk of bodily harm, sickness, or death; or

46 (B) a significant portion of real property at risk of loss;

47 (iv) that are sudden in nature and generally occur less frequently than every three years;

48 and

49 (v) that results in:

50 (A) the president of the United States declaring an emergency or major disaster in the
51 state;

52 (B) the governor declaring a state of emergency under Title 63K, Chapter 4, Disaster
53 Response and Recovery Act; or

54 (C) the chief executive officer of a local government declaring a local emergency under
55 Title 63K, Chapter 4, Disaster Response and Recovery Act.

56 (b) "Disaster recovery fund" means the State Disaster Recovery Restricted Account
57 created in Section 53-2-403.

58 (c) "Emergency preparedness" means the following done for the purpose of being
59 prepared for an emergency as defined by the division by rule made in accordance with Title
60 63G, Chapter 3, Utah Administrative Rulemaking Act:

- 61 (i) the purchase of equipment;
- 62 (ii) the training of personnel; or
- 63 (iii) the obtaining of a certification.

64 (d) (i) "Emergency disaster services" means the following [~~that are of a temporary~~
65 ~~basis~~]:

- 66 (A) evacuation;
- 67 (B) shelter;
- 68 (C) medical triage;
- 69 (D) emergency transportation;
- 70 (E) repair of infrastructure;
- 71 (F) safety services, including fencing or roadblocks;
- 72 (G) sandbagging;
- 73 (H) [~~emergency~~] debris removal;
- 74 (I) temporary bridges;
- 75 (J) procurement and distribution of food, water, or ice;
- 76 (K) procurement and deployment of generators;
- 77 (L) rescue or recovery; [~~or~~]

78 (M) emergency protective measures; or
79 [~~(M)~~] (N) services similar to those described in Subsections (2)(d)(i)(A) through [~~(L)~~]
80 (M), as defined by the division by rule, that are generally required [~~within the first 96 hours of~~]
81 in response to a declared disaster.

82 (ii) "Emergency disaster services" does not include:

- 83 (A) emergency preparedness; or
- 84 (B) notwithstanding whether or not a county participates in the Wildland Fire
85 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs
86 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the
87 Wildland Fire Suppression Fund.

88 (e) "Governing body" means:

- 89 (i) for a county, city, or town, the legislative body of the county, city, or town;
- 90 (ii) for a local district, the board of trustees of the local district; and
- 91 (iii) for a special service district:
 - 92 (A) the legislative body of the county, city, or town that established the special service
 - 93 district, if no administrative control board has been appointed under Section 17D-1-301; or
 - 94 (B) the administrative control board of the special service district, if an administrative
 - 95 control board has been appointed under Section 17D-1-301.
- 96 (f) "Local district" has the same meaning as defined in Section 17B-1-102.
- 97 (g) "Local fund" means a local government disaster fund created in accordance with
- 98 Section 53-2-405.
 - 99 (h) "Local government" means:
 - 100 (i) a county;
 - 101 (ii) a city or town; or
 - 102 (iii) a local district or special service district that:
 - 103 (A) operates a water system;
 - 104 (B) provides transportation service;
 - 105 (C) provides, operates, and maintains correctional and rehabilitative facilities and
 - 106 programs for municipal, state, and other detainees and prisoners;
 - 107 (D) provides consolidated 911 and emergency dispatch service;
 - 108 (E) operates an airport; or
 - 109 (F) operates a sewage system.
 - 110 (i) "Special fund" means a fund other than a general fund of a local government that is
 - 111 created for a special purpose established under the uniform system of budgeting, accounting,
 - 112 and reporting.
 - 113 (j) "Special service district" has the same meaning as defined in Section 17D-1-102.
- 114 Section 2. Section **53-2-403** is amended to read:
 - 115 **53-2-403. State Disaster Recovery Restricted Account.**
 - 116 (1) (a) There is created a restricted account in the General Fund known as the "State
 - 117 Disaster Recovery Restricted Account."
 - 118 (b) The disaster recovery fund shall consist of:
 - 119 (i) money deposited into the disaster recovery fund in accordance with Section

120 63J-1-314;

121 (ii) money appropriated to the disaster recovery fund by the Legislature; and

122 (iii) any other public or private money received by the division that is:

123 (A) given to the division for purposes consistent with this section; and

124 (B) deposited into the disaster recovery fund at the request of:

125 (I) the division; or

126 (II) the person giving the money.

127 (c) The Division of Finance shall deposit interest or other earnings derived from

128 investment of fund money into the General Fund.

129 ~~[(d)]~~ (2) Subject to being appropriated by the Legislature, money in the disaster
130 recovery fund may only be expended or committed to be expended as follows:

131 (a) (i) ~~[(A)]~~ subject to Section 53-2-406, in any fiscal year the division may expend or
132 commit to expend an amount that does not exceed \$250,000, in accordance with Section
133 53-2-404, to fund costs to the state of emergency disaster services in response to a declared
134 disaster;

135 ~~[(B)]~~ (ii) subject to Section 53-2-406, in any fiscal year the division may expend or
136 commit to expend an amount that exceeds \$250,000, but does not exceed \$1,000,000, in
137 accordance with Section 53-2-404, to fund costs to the state of emergency disaster services in
138 response to a declared disaster if the division:

139 ~~[(F)]~~ (A) before making the expenditure or commitment to expend, obtains approval for
140 the expenditure or commitment to expend from the governor;

141 ~~[(H)]~~ (B) subject to Subsection ~~[(4)]~~ (5), provides written notice of the expenditure or
142 commitment to expend to the speaker of the House of Representatives, the president of the
143 Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than
144 72 hours after making the expenditure or commitment to expend; and

145 ~~[(H)]~~ (C) makes the report required by Subsection 53-2-406(2); ~~[and]~~

146 ~~[(E)]~~ (iii) subject to Section 53-2-406, in any fiscal year the division may expend or
147 commit to expend an amount that exceeds \$1,000,000, but does not exceed \$3,000,000, in
148 accordance with Section 53-2-404, to fund costs to the state of emergency disaster services in
149 response to a declared disaster if, before making the expenditure or commitment to expend, the
150 division:

151 ~~[(F)]~~ (A) obtains approval for the expenditure or commitment to expend from the
152 governor; and

153 ~~[(H)]~~ (B) submits the expenditure or commitment to expend to the Executive
154 Appropriations Committee in accordance with Subsection 53-2-406(3); and

155 (iv) in any fiscal year the division may expend or commit to expend an amount that
156 does not exceed \$150,000 to fund expenses incurred by the National Guard if:

157 (A) in accordance with Section 39-1-5, the governor orders into active service the
158 National Guard in response to a declared disaster; and

159 (B) the money is not used for expenses that qualify for payment as emergency disaster
160 services; and

161 ~~[(i)]~~ (b) subject to being appropriated by the Legislature, money not described in
162 ~~[Subsection (1)(d)(i)]~~ Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be
163 expended to fund costs to the state directly related to a declared disaster that are not costs
164 related to:

165 ~~[(A)]~~ (i) emergency disaster services;

166 ~~[(B)]~~ (ii) emergency preparedness; or

167 ~~[(C)]~~ (iii) notwithstanding whether or not a county participates in the Wildland Fire
168 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs
169 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the
170 Wildland Fire Suppression Fund.

171 ~~[(2)]~~ (3) The state treasurer shall invest money in the disaster recovery fund according
172 to Title 51, Chapter 7, State Money Management Act.

173 ~~[(3)]~~ (4) (a) Except as provided in ~~[Subsection (1)]~~ Subsections (1) and (2), the money
174 in the disaster recovery fund may not be diverted, appropriated, expended, or committed to be
175 expended for a purpose that is not listed in this section.

176 (b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money
177 from the disaster recovery fund to eliminate or otherwise reduce an operating deficit if the
178 money appropriated from the disaster recovery fund is expended or committed to be expended
179 for a purpose other than one listed in this section.

180 (c) The Legislature may not amend the purposes for which money in the disaster
181 recovery fund may be expended or committed to be expended except by the affirmative vote of

182 two-thirds of all the members elected to each house.

183 [~~(4)~~] (5) The division:

184 (a) shall provide the notice required by Subsection [~~(1)(d)(i)(B)~~] (2)(a)(ii) using the
185 best available method under the circumstances as determined by the division; and

186 (b) may provide the notice required by Subsection [~~(1)(d)(i)(B)~~] (2)(a)(ii) in electronic
187 format.

188 Section 3. Section **53-2-404 (Effective 05/01/13)** is amended to read:

189 **53-2-404 (Effective 05/01/13). State costs for emergency disaster services.**

190 (1) Subject to this section and Section 53-2-403, the division [~~shall expend or commit~~
191 ~~to expend money described in Subsection 53-2-403(1)(d)(i) to fund costs to the state of~~
192 ~~emergency disaster services]~~ may expend or commit to expend money described in

192a **H→ [-Subsections] Subsection ←H**

193 53-2-403(2)(a)(i), (ii), or (iii) to fund costs to the state of emergency disaster services if, at the
194 discretion of the division, the expenditure is necessary in response to the disaster.

195 (2) Money paid by the division under this section to government entities and private
196 persons providing emergency disaster services are subject to Title 63G, Chapter 6a, Utah
197 Procurement Code.

198 Section 4. Section **53-2-406** is amended to read:

199 **53-2-406. Reporting.**

200 (1) By no later than December 31 of each year, the division shall provide a written
201 report to the governor and the Executive Offices and Criminal Justice Appropriations
202 Subcommittee of:

203 (a) the division's activities under this part;

204 (b) money expended or committed to be expended in accordance with this part;

205 (c) the balances in the disaster recovery fund; and

206 (d) any unexpended balance of appropriations from the disaster recovery fund.

207 (2) (a) The governor and the Department of Public Safety shall report to the Legislative
208 Management Committee an expenditure or commitment to expend made in accordance with
209 Subsection 53-2-403[~~(1)(d)(i)(B)~~](2)(a)(ii).

210 (b) The governor and the Department of Public Safety shall make the report required
211 by this Subsection (2) on or before the sooner of:

212 (i) the day on which the governor calls the Legislature into session in accordance with

213 Section 63K-1-302; or

214 (ii) 15 days after the division makes the expenditure or commitment to expend
215 described in Subsection 53-2-403~~[(1)(d)(i)(B)]~~(2)(a)(ii).

216 (3) (a) Subject to Subsection (3)(b), before the division makes an expenditure or
217 commitment to expend described in Subsection 53-2-403~~[(1)(d)(i)(C)]~~(2)(a)(iii), the governor
218 and the Department of Public Safety shall submit the expenditure or commitment to expend to
219 the Executive Appropriations Committee for its review and recommendations.

220 (b) The Executive Appropriations Committee shall review the expenditure or
221 commitment to expend and may:

222 (i) recommend that the division make the expenditure or commitment to expend;

223 (ii) recommend that the division not make the expenditure or commitment to expend;

224 or

225 (iii) recommend to the governor that the governor call a special session of the
226 Legislature to review and approve or reject the expenditure or commitment to expend.

227 Section 5. Section **63J-1-602.3** is amended to read:

228 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

229 (1) Funding for the Search and Rescue Financial Assistance Program, as provided in
230 Section 53-2-107.

231 (2) Appropriations made to the Division of Emergency Management from the State
232 Disaster Recovery Restricted Account, as provided in Section 53-2-403.

233 ~~[(2)]~~ (3) Appropriations made to the Department of Public Safety from the Department
234 of Public Safety Restricted Account, as provided in Section 53-3-106.

235 ~~[(3)]~~ (4) Appropriations to the Motorcycle Rider Education Program, as provided in
236 Section 53-3-905.

237 ~~[(4)]~~ (5) Appropriations from the Utah Highway Patrol Aero Bureau Restricted
238 Account created in Section 53-8-303.

239 ~~[(5)]~~ (6) Appropriations from the DNA Specimen Restricted Account created in
240 Section 53-10-407.

241 ~~[(6)]~~ (7) The Canine Body Armor Restricted Account created in Section 53-16-201.

242 ~~[(7)]~~ (8) Appropriations to the State Board of Education, as provided in Section
243 53A-17a-105.

244 [~~(8)~~] (9) Money received by the State Office of Rehabilitation for the sale of certain
 245 products or services, as provided in Section 53A-24-105.

246 [~~(9)~~] (10) Certain funds appropriated from the General Fund to the State Board of
 247 Regents for teacher preparation programs, as provided in Section 53B-6-104.

248 [~~(10)~~] (11) A certain portion of money collected for administrative costs under the
 249 School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

250 [~~(11)~~] (12) Certain surcharges on residential and business telephone numbers imposed
 251 by the Public Service Commission, as provided in Section 54-8b-10.

252 [~~(12)~~] (13) Certain fines collected by the Division of Occupational and Professional
 253 Licensing for violation of unlawful or unprofessional conduct that are used for education and
 254 enforcement purposes, as provided in Section 58-17b-505.

255 [~~(13)~~] (14) Certain fines collected by the Division of Occupational and Professional
 256 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
 257 provided in Section 58-63-103.

258 [~~(14)~~] (15) Appropriations from the Relative Value Study Restricted Account created
 259 in Section 59-9-105.

260 [~~(15)~~] (16) The Cigarette Tax Restricted Account created in Section 59-14-204.
 261 Section 6. **Appropriation.**

262 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
 263 the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money
 264 are appropriated from resources not otherwise appropriated, or reduced from amounts
 265 previously appropriated, out of the funds or accounts indicated. These sums of money are in
 266 addition to any amounts previously appropriated for fiscal year 2014.

267 To the Department of Public Safety - Division of Emergency Management -
 268 National Guard Response

269 From State Disaster Recovery Restricted Account, one-time \$150,000

270 Schedule of Programs:

271 National Guard Response \$150,000

272 Under Section 63J-1-603 the Legislature intends that appropriations provided under this
 273 section not lapse at the end of fiscal year 2014. The use of any nonlapsing funds is limited to
 274 an appropriation made to the Division of Emergency Management from the State Disaster

275 Recovery Restricted Account, as provided in Subsection 53-2-403(2)(iv).

276 Section 7. **Effective date.**

277 This bill takes effect on July 1, 2013.

277a **Ĥ→ Section 8. Coordinating H.B. 223 with H.B. 302 -- Substantive and technical amendments.**

277b **If this H.B. 223 and H.B. 302, Emergency Response Amendments, both pass and**
277c **become law, it is the intent of the Legislature that:**

277d **(1) Subsection 53-2-404(1) shall be amended to read:**

277e **"(1) Subject to this section and Section [~~53-2-403~~] 53-2a-603, the division [~~shall expend or~~**
277f **commit to expend money described in Subsection 53-2-403(1)(d)(i) to fund costs to the state of**
277g **emergency disaster services] may expend or commit to expend money described in Subsection**
277h **53-2a-603(2)(a)(i), (ii), or (iii) to fund costs to the state of emergency disaster services if, at the**
277i **discretion of the division, the expenditure is necessary in response to the disaster." ;**

277j **(2) Subsection 63J-1-602.3(2) shall be amended to read:**

277k **"(2) Appropriations made to the Division of Emergency Management from the State Disaster**
277l **Recovery Restricted Account, as provided in Section 53-2a-603. "; and**

277m **(3) the Office of Legislative Research and General Counsel make these changes when**
277n **preparing the Utah Code database for publication. ←Ĥ**

Legislative Review Note
as of 2-4-13 10:47 AM

Office of Legislative Research and General Counsel