

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

8 **LONG TITLE**

9 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

20 **Money Appropriated in this Bill:**

21 This bill appropriates in fiscal year 2014:

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

25 **Other Special Clauses:**

26 This bill takes effect on July 1, 2013.

27 This bill coordinates with H.B. 302, Emergency Response Amendments, by providing

28 substantive and technical corrections.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **53-2-402**, as last amended by Laws of Utah 2009, Chapter 77

32 **53-2-403**, as last amended by Laws of Utah 2011, Chapter 342

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

34 **53-2-406**, as last amended by Laws of Utah 2010, Chapters 323 and 370

35 **63J-1-602.3**, as last amended by Laws of Utah 2012, Chapters 71, 341, and 398

36 **Utah Code Sections Affected by Coordination Clause:**

37 **53-2-404 (Effective 05/01/13)**, as last amended by Laws of Utah 2012, Chapter 347

38 **63J-1-602.3**, as last amended by Laws of Utah 2012, Chapters 71, 341, and 398



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

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

42 **53-2-402. Definitions.**

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

45 (2) As used in this part:

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

47 (i) within the state;

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

49 (iii) that involve:

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

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

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

53 and

54 (v) that results in:

55 (A) the president of the United States declaring an emergency or major disaster in the

56 state;

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

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

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

63 (c) "Emergency preparedness" means the following done for the purpose of being
64 prepared for an emergency as defined by the division by rule made in accordance with Title
65 63G, Chapter 3, Utah Administrative Rulemaking Act:

- 66 (i) the purchase of equipment;
- 67 (ii) the training of personnel; or
- 68 (iii) the obtaining of a certification.

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

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

84 [~~(M)~~] (N) services similar to those described in Subsections (2)(d)(i)(A) through [~~(L)~~]

85 (M), as defined by the division by rule, that are generally required [~~within the first 96 hours of~~
86 in response to a declared disaster.

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

88 (A) emergency preparedness; or

89 (B) notwithstanding whether or not a county participates in the Wildland Fire

90 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs

91 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the

92 Wildland Fire Suppression Fund.

93 (e) "Governing body" means:

94 (i) for a county, city, or town, the legislative body of the county, city, or town;

95 (ii) for a local district, the board of trustees of the local district; and

96 (iii) for a special service district:

97 (A) the legislative body of the county, city, or town that established the special service
98 district, if no administrative control board has been appointed under Section 17D-1-301; or

99 (B) the administrative control board of the special service district, if an administrative
100 control board has been appointed under Section 17D-1-301.

101 (f) "Local district" has the same meaning as defined in Section 17B-1-102.

102 (g) "Local fund" means a local government disaster fund created in accordance with
103 Section 53-2-405.

104 (h) "Local government" means:

105 (i) a county;

106 (ii) a city or town; or

107 (iii) a local district or special service district that:

108 (A) operates a water system;

109 (B) provides transportation service;

110 (C) provides, operates, and maintains correctional and rehabilitative facilities and
111 programs for municipal, state, and other detainees and prisoners;

112 (D) provides consolidated 911 and emergency dispatch service;

113 (E) operates an airport; or

114 (F) operates a sewage system.

115 (i) "Special fund" means a fund other than a general fund of a local government that is
116 created for a special purpose established under the uniform system of budgeting, accounting,
117 and reporting.

118 (j) "Special service district" has the same meaning as defined in Section 17D-1-102.

119 Section 2. Section **53-2-403** is amended to read:

120 **53-2-403. State Disaster Recovery Restricted Account.**

121 (1) (a) There is created a restricted account in the General Fund known as the "State
122 Disaster Recovery Restricted Account."

123 (b) The disaster recovery fund shall consist of:

124 (i) money deposited into the disaster recovery fund in accordance with Section
125 63J-1-314;

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

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

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

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

130 (I) the division; or

131 (II) the person giving the money.

132 (c) The Division of Finance shall deposit interest or other earnings derived from
133 investment of fund money into the General Fund.

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

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

140 ~~[(B)]~~ (ii) subject to Section 53-2-406, in any fiscal year the division may expend or

141 commit to expend an amount that exceeds \$250,000, but does not exceed \$1,000,000, in
142 accordance with Section 53-2-404, to fund costs to the state of emergency disaster services in
143 response to a declared disaster if the division:

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

146 ~~[(H)]~~ (B) subject to Subsection ~~[(4)]~~ (5), provides written notice of the expenditure or
147 commitment to expend to the speaker of the House of Representatives, the president of the
148 Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than
149 72 hours after making the expenditure or commitment to expend; and

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

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

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

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

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

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

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

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

169 related to:

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

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

172 [~~(C)~~] (iii) notwithstanding whether or not a county participates in the Wildland Fire

173 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs

174 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the

175 Wildland Fire Suppression Fund.

176 [~~(2)~~] (3) The state treasurer shall invest money in the disaster recovery fund according

177 to Title 51, Chapter 7, State Money Management Act.

178 [~~(3)~~] (4) (a) Except as provided in [~~Subsection (1)~~] Subsections (1) and (2), the money

179 in the disaster recovery fund may not be diverted, appropriated, expended, or committed to be

180 expended for a purpose that is not listed in this section.

181 (b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money

182 from the disaster recovery fund to eliminate or otherwise reduce an operating deficit if the

183 money appropriated from the disaster recovery fund is expended or committed to be expended

184 for a purpose other than one listed in this section.

185 (c) The Legislature may not amend the purposes for which money in the disaster

186 recovery fund may be expended or committed to be expended except by the affirmative vote of

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

188 [~~(4)~~] (5) The division:

189 (a) shall provide the notice required by Subsection [~~(1)(d)(i)(B)~~] (2)(a)(ii) using the

190 best available method under the circumstances as determined by the division; and

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

192 format.

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

194 **53-2-404 (Effective 05/01/13). State costs for emergency disaster services.**

195 (1) Subject to this section and Section 53-2-403, the division [~~shall expend or commit~~

196 ~~to expend money described in Subsection 53-2-403(1)(d)(i) to fund costs to the state of~~

197 ~~emergency disaster services]~~ may expend or commit to expend money described in Subsection
198 53-2-403(2)(a)(i), (ii), or (iii) to fund costs to the state of emergency disaster services if, at the
199 discretion of the division, the expenditure is necessary in response to the disaster.

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

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

204 **53-2-406. Reporting.**

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

- 208 (a) the division's activities under this part;
- 209 (b) money expended or committed to be expended in accordance with this part;
- 210 (c) the balances in the disaster recovery fund; and
- 211 (d) any unexpended balance of appropriations from the disaster recovery fund.

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

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

- 217 (i) the day on which the governor calls the Legislature into session in accordance with
218 Section 63K-1-302; or
- 219 (ii) 15 days after the division makes the expenditure or commitment to expend
220 described in Subsection 53-2-403~~[(1)(d)(i)(B)]~~(2)(a)(ii).

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

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

- 227 (i) recommend that the division make the expenditure or commitment to expend;
- 228 (ii) recommend that the division not make the expenditure or commitment to expend;

229 or

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

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

233 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

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

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

238 [~~2~~] (3) Appropriations made to the Department of Public Safety from the Department
239 of Public Safety Restricted Account, as provided in Section 53-3-106.

240 [~~3~~] (4) Appropriations to the Motorcycle Rider Education Program, as provided in
241 Section 53-3-905.

242 [~~4~~] (5) Appropriations from the Utah Highway Patrol Aero Bureau Restricted
243 Account created in Section 53-8-303.

244 [~~5~~] (6) Appropriations from the DNA Specimen Restricted Account created in
245 Section 53-10-407.

246 [~~6~~] (7) The Canine Body Armor Restricted Account created in Section 53-16-201.

247 [~~7~~] (8) Appropriations to the State Board of Education, as provided in Section
248 53A-17a-105.

249 [~~8~~] (9) Money received by the State Office of Rehabilitation for the sale of certain
250 products or services, as provided in Section 53A-24-105.

251 [~~9~~] (10) Certain funds appropriated from the General Fund to the State Board of
252 Regents for teacher preparation programs, as provided in Section 53B-6-104.

253 ~~[(10)]~~ (11) A certain portion of money collected for administrative costs under the
254 School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

255 ~~[(11)]~~ (12) Certain surcharges on residential and business telephone numbers imposed
256 by the Public Service Commission, as provided in Section 54-8b-10.

257 ~~[(12)]~~ (13) Certain fines collected by the Division of Occupational and Professional
258 Licensing for violation of unlawful or unprofessional conduct that are used for education and
259 enforcement purposes, as provided in Section 58-17b-505.

260 ~~[(13)]~~ (14) Certain fines collected by the Division of Occupational and Professional
261 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
262 provided in Section 58-63-103.

263 ~~[(14)]~~ (15) Appropriations from the Relative Value Study Restricted Account created
264 in Section 59-9-105.

265 ~~[(15)]~~ (16) The Cigarette Tax Restricted Account created in Section 59-14-204.

266 Section 6. **Appropriation.**

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

272 To the Department of Public Safety - Division of Emergency Management -
273 National Guard Response

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

275 Schedule of Programs:

276 National Guard Response \$150,000

277 Under Section 63J-1-603 the Legislature intends that appropriations provided under this
278 section not lapse at the end of fiscal year 2014. The use of any nonlapsing funds is limited to
279 an appropriation made to the Division of Emergency Management from the State Disaster
280 Recovery Restricted Account, as provided in Subsection 53-2-403(2)(iv).

281 Section 7. **Effective date.**

282 This bill takes effect on July 1, 2013.

283 Section 8. **Coordinating H.B. 223 with H.B. 302 -- Substantive and technical**
284 **amendments.**

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

287 (1) Subsection 53-2-404(1) shall be amended to read:

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

294 (2) Subsection 63J-1-602.3(2) shall be amended to read:

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

297 (3) the Office of Legislative Research and General Counsel make these changes when
298 preparing the Utah Code database for publication.