

Part 10

Energy Emergency Powers of the Governor Act

53-2a-1001 Title.

This part is known as the "Energy Emergency Powers of the Governor Act."

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-1002 Legislative findings and purpose.

- (1) The Legislature finds that the lack of energy resources and other energy resource emergencies may threaten the availability of essential services and transportation and the operation of the economy, jeopardizing the peace, health, safety, and welfare of the people of this state.
- (2) The Legislature further finds that it is necessary to provide an orderly procedure for anticipating and responding to energy resource shortages and disruptions and to grant, under conditions prescribed in this part, emergency powers to the governor to order involuntary curtailments in the use of energy resources.
- (3) The Legislature further finds and declares that it is the policy of this state to assist the United States in effective management and control of factors and situations as contribute to an emergency affecting or likely to affect this state; to cooperate with other states in matters related to an emergency affecting or likely to affect this state; to meet extraordinary conditions in this state arising out of the crisis by taking steps as are necessary and appropriate; and generally to protect the peace, health, safety, and welfare of the people of this state.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-1003 "Energy resources" defined.

As used in this part, "energy resources" includes electricity, natural gas, gasoline and middle distillates, coal, wood fuels, geothermal sources, radioactive materials, and any other resource yielding energy.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-1004 Information-gathering powers -- Subpoena power -- Coordination with other regulatory authorities.

- (1) On a continuing basis the governor may obtain all necessary information from energy resource producers, manufacturers, suppliers, and consumers doing business within, and from political subdivisions in, this state as necessary to determine whether shortages or an emergency will require energy resource conservation measures. This information may include, but shall not be limited to:
 - (a) sales volumes;
 - (b) forecasts of energy resource requirements;
 - (c) from manufacturers, suppliers, and consumers, an inventory of energy resources; and
 - (d) local distribution patterns of the information described in Subsections (1)(a), (1)(b), and (1)(c).
- (2) In obtaining information at any time from energy resource producers, manufacturers, suppliers, or consumers under Subsection (1)(c) and in obtaining any other information under Subsection (1) during a state of emergency proclaimed, the governor may subpoena witnesses, material and relevant books, papers, accounts, records, and memoranda, administer oaths, and cause

the depositions of persons residing within or without the state to be taken in the manner prescribed for depositions in civil actions in district courts, to obtain information relevant to energy resources that are the subject of the proclaimed emergency.

- (3) In obtaining information under this section the governor shall:
- (a) seek to avoid eliciting information already furnished by a person or political subdivision in this state to a federal, state, or local regulatory authority that is available for the governor's study; and
 - (b) cause reporting procedures, including forms, to conform to existing requirements of federal, state, and local regulatory authorities wherever possible.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-1005 Confidential nature of information preserved -- Relief from subpoena -- Unauthorized disclosure as misdemeanor -- Removal from office.

- (1) Information furnished pursuant to Section 53-2a-1004 and designated by that person as confidential shall be maintained as confidential by the governor and any person who obtains information which the person knows to be confidential under this part. The governor shall not make known in any manner any particulars of such information to persons other than those specified in Subsection (4). No subpoena or judicial order may be issued compelling the governor or any other person to divulge or make known such confidential information, except when relevant to a prosecution for violation of Subsection (5).
- (2) Nothing in this section shall prohibit the use of confidential information to prepare statistics or other general data for publication, so presented as to prevent identification of particular persons.
- (3) Any person who is served with a subpoena to give testimony orally or in writing, or to produce books, papers, correspondence, memoranda, agreements, or other documents or records pursuant to this part may apply to any district court of this state for protection against abuse or hardship in the manner provided by law.
- (4) References to the governor in this section include the governor and any other individuals designated for this purpose in writing by the governor.
- (5) Any person who wilfully discloses confidential information in violation of this section is guilty of a class A misdemeanor and, in addition, may be subject to removal from office or immediate dismissal from public employment.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-1006 Curtailment of energy use -- Standby priorities -- Restriction on involuntary curtailment.

In consultation with appropriate federal and state officials and officials of political subdivisions in this state, the governor shall cause to be established, and revised as appropriate, standby priorities for curtailment in the use of energy resources. Involuntary curtailments, however, may be ordered only by means of executive orders issued pursuant to this part.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-1007 Proclamation of emergency -- Effective period -- Extension of renewal by Legislature.

- (1)

- (a) The governor may issue a proclamation declaring that a state of emergency exists with regard to one or more energy resources if the governor determines that an existing or imminent severe disruption or impending shortage in the supply of one or more energy resources, in this state or elsewhere:
 - (i) threatens:
 - (A) the availability of essential services or transportation; or
 - (B) the operation of the economy; and
 - (ii) because of the threats described in Subsection (1)(a)(i), jeopardizes the peace, health, safety, and welfare of the people of this state.
 - (b) The proclamation declaring a state of emergency described in Subsection (1)(a) shall state with specificity the nature of the disruption or shortage in an energy resource.
 - (c)
 - (i) Within seven calendar days of the day on which the governor issues a proclamation declaring a state of emergency under this section, the Legislative Management Committee shall:
 - (A) review the proclamation; and
 - (B) advise the governor on the proclamation.
 - (ii) The failure of the Legislative Management Committee to meet as required by Subsection (1)(c)(i) does not affect the validity of the proclamation declaring a state of emergency.
- (2)
- (a) A proclamation issued under this section, and any order or rule issued as a result of the proclamation shall continue in effect until 60 days from the date of the proclamation of the state of emergency unless the governor rescinds the proclamation and declares the emergency ended prior to the expiration of this 60-day period.
 - (b) A proclamation issued within 30 days of the expiration of a prior proclamation for the same emergency shall be considered a renewal or extension subject to Subsection (3).
- (3) A proclamation may be renewed or extended only by joint resolution of the Legislature.

Renumbered and Amended by Chapter 295, 2013 General Session

**53-2a-1008 Curtailment, adjustment, and allocation of energy use by executive orders --
Limitations and considerations in issuance and application.**

- (1) Upon issuance of a proclamation pursuant to Section 53-2a-1007, the governor in addition may by executive order:
 - (a) require reduction in energy resource usage and the application of conservation, prevention of waste, and the salvaging of energy resources and the materials, services, and facilities derived therefrom or dependent thereon, by state agencies and political subdivisions in this state;
 - (b) direct the establishment by state agencies and political subdivisions in this state of programs necessary to implement and comply with federal energy conservation programs where these programs have not theretofore been so established, including, but not limited to, allocation or rationing of energy resources and the distribution of the state's discretionary allotments;
 - (c) require involuntary curtailments, adjustments, or allocations in the supply and consumption of energy resources applicable to all suppliers and consumers including, but not limited to, specification of the times and manner in which these resources are supplied or consumed; or
 - (d) prescribe and direct activities promoting the conservation, prevention of waste, and salvage of energy resources and the materials, services, and facilities derived therefrom or dependent thereon, including, but not limited to, the modification of transportation routes and schedules,

or the suspension of weight limits or other restrictions from the transportation of energy resources, to the extent permissible under federal law and regulations.

- (2) Any restrictions, curtailments, adjustments, or allocations pursuant to Subsection (1) shall:
- (a) be ordered and continue only so long as demonstrably necessary for the maintenance of essential services or transportation, or the continued operation of the economy but no longer than the duration of the proclamation;
 - (b) be applied as uniformly as practicable within each class of suppliers and consumers and without discrimination within a class; and
 - (c) give due consideration to the needs of commercial, retail, professional, and service establishments whose normal function is to supply goods or services or both of an essential nature, including, but not limited to, food, lodging, fuel, or medical care facilities during times of the day other than conventional daytime working hours.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-1009 Other emergency powers of governor unaffected.

The powers vested in the governor under this part shall be in addition to, and not in lieu of, any other emergency powers otherwise constitutionally or statutorily vested in the governor.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-1010 Existing agencies to be used in implementation.

The governor shall use, to the extent practicable, existing state boards, commissions, or agencies or officers or employees for the purpose of carrying out the provisions of this part.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-1011 Enforcement of orders and rules.

The governor may apply to any district court for appropriate equitable relief against any person violating or failing to carry out the provisions of this part or any order or rule issued pursuant to this part.

Renumbered and Amended by Chapter 295, 2013 General Session

53-2a-1012 Rules and regulations -- Approval by Legislature.

The board, commission, or agency designated by the governor for carrying out the provisions of this part is authorized to promulgate rules and regulations as are necessary for effective administration of this part with approval of the Legislature.

Renumbered and Amended by Chapter 295, 2013 General Session