

DISASTER RECOVERY FOR LOCAL GOVERNMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Public Safety Code and the Budgetary Procedures Act to establish a loan program to local government entities for the purpose of providing emergency disaster services.

Highlighted Provisions:

This bill:

▶ creates the Local Government Emergency Response Loan Fund for the purpose of providing short-term, low-interest loans to local government entities to be used for:

- costs incurred for providing emergency disaster services; and
- matching funds required to secure federal funds or grants related to a declared

disaster;

▶ provides the criteria by which loans from the fund will be awarded;

▶ provides rulemaking authority for the Division of Emergency Management to administer the loan program;

▶ provides that funds from the State Disaster Recovery Restricted Account may be appropriated to the Local Government Emergency Response Loan Fund; and

▶ provides that a specified portion of the General Fund revenue surplus be deposited annually into the Local Government Emergency Response Loan Fund.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53-2a-603**, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and
33 amended by Laws of Utah 2013, Chapter 295

34 **63J-1-314**, as last amended by Laws of Utah 2013, Chapter 295

35 ENACTS:

36 **53-2a-607**, Utah Code Annotated 1953

37 **53-2a-608**, Utah Code Annotated 1953

38 **53-2a-609**, Utah Code Annotated 1953



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

41 Section 1. Section **53-2a-603** is amended to read:

42 **53-2a-603. State Disaster Recovery Restricted Account.**

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

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

46 (i) money deposited into the disaster recovery fund in accordance with Section
47 **63J-1-314**;

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

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

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

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

52 (I) the division; or

53 (II) the person giving the money.

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

56 (2) Subject to being appropriated by the Legislature, money in the disaster recovery
57 fund may only be expended or committed to be expended as follows:

58 (a) (i) subject to Section **53-2a-606**, in any fiscal year the division may expend or

59 commit to expend an amount that does not exceed \$250,000, in accordance with Section
60 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared
61 disaster;

62 (ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit
63 to expend an amount that exceeds \$250,000, but does not exceed \$1,000,000, in accordance
64 with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to
65 a declared disaster if the division:

66 (A) before making the expenditure or commitment to expend, obtains approval for the
67 expenditure or commitment to expend from the governor;

68 (B) subject to Subsection (5), provides written notice of the expenditure or
69 commitment to expend to the speaker of the House of Representatives, the president of the
70 Senate, the Division of Finance, and the Office of the Legislative Fiscal Analyst no later than
71 72 hours after making the expenditure or commitment to expend; and

72 (C) makes the report required by Subsection 53-2a-606(2);

73 (iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit
74 to expend an amount that exceeds \$1,000,000, but does not exceed \$3,000,000, in accordance
75 with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to
76 a declared disaster if, before making the expenditure or commitment to expend, the division:

77 (A) obtains approval for the expenditure or commitment to expend from the governor;
78 and

79 (B) submits the expenditure or commitment to expend to the Executive Appropriations
80 Committee in accordance with Subsection 53-2a-606(3); and

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

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

85 (B) the money is not used for expenses that qualify for payment as emergency disaster
86 services; [and]

87 (b) subject to being appropriated by the Legislature, money not described in
88 Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs
89 to the state directly related to a declared disaster that are not costs related to:

90 (i) emergency disaster services;
91 (ii) emergency preparedness; or
92 (iii) notwithstanding whether a county participates in the Wildland Fire Suppression
93 Fund created in Section [65A-8-204](#), any fire suppression or presuppression costs that may be
94 paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland
95 Fire Suppression Fund[-]; and

96 (c) to fund the Local Government Emergency Response Loan Fund created in Section
97 [53-2a-607](#).

98 (3) The state treasurer shall invest money in the disaster recovery fund according to
99 Title 51, Chapter 7, State Money Management Act.

100 (4) (a) Except as provided in Subsections (1) and (2), the money in the disaster
101 recovery fund may not be diverted, appropriated, expended, or committed to be expended for a
102 purpose that is not listed in this section.

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

107 (c) The Legislature may not amend the purposes for which money in the disaster
108 recovery fund may be expended or committed to be expended except by the affirmative vote of
109 two-thirds of all the members elected to each house.

110 (5) The division:

111 (a) shall provide the notice required by Subsection (2)(a)(ii) using the best available
112 method under the circumstances as determined by the division; and

113 (b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

114 Section 2. Section [53-2a-607](#) is enacted to read:

115 **53-2a-607. Creation and administration.**

116 (1) (a) There is created an enterprise fund known as the Local Government Emergency
117 Response Loan Fund, administered by the director or the director's designee.

118 (b) The division as defined in Section [53-2a-103](#) is the administrator of the fund.

119 (2) The fund shall consist of:

120 (a) money appropriated to the fund by the Legislature;

121 (b) money received for the repayment of loans made from the fund;

122 (c) interest earned on the fund; and

123 (d) money deposited into the fund in accordance with Section [63J-1-314](#).

124 (3) The money in the fund shall be invested by the state treasurer according to the
125 procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that
126 all interest or other earnings derived from money in the fund shall be deposited into the fund.

127 (4) Local government entities may apply through the division for a short-term loan
128 from the fund for the purposes provided in Section [53-2a-608](#), provided that the local
129 government entity:

130 (a) agrees to the terms of the loan; and

131 (b) is not in default on any other state loans administered by the Division of Finance or
132 any other state agency.

133 (5) The division may not loan out:

134 (a) more than 50% of the total account balance available at the time that a loan request
135 is made by a local government entity; or

136 (b) an amount that will leave the fund balance less than \$10,000,000.

137 Section 3. Section **53-2a-608** is enacted to read:

138 **53-2a-608. Purposes and criteria for loans.**

139 (1) Money in the fund shall be used by the department, as prioritized by the director,
140 only to:

141 (a) provide loans to local government entities for:

142 (i) the costs incurred by a local government entity for providing emergency disaster
143 services as defined in Section [53-2a-602](#); or

144 (ii) providing any state or local matching funds to secure federal funds or grants related
145 to a declared disaster, as defined in Section [53-2a-602](#); and

146 (b) pay the Division of Finance for the costs of administering the fund, providing loans,
147 and obtaining repayments of loans.

148 (2) The division shall establish the terms and conditions of the loans and the repayment
149 schedule consistent with the following criteria:

150 (a) the interest rate charged and the maximum payback period on all loans shall be:

151 (i) the state's prime interest rate at the time of loan closing, plus zero percent, with a

152 maximum payback period of 10 years if the applicant has reserved an average of 90% to 100%
153 of the amount authorized in Section 53-2a-605 over the previous five fiscal years;

154 (ii) the state's prime interest rate at the time of loan closing, plus 2%, with a maximum
155 payback period of five years if the applicant has reserved an average of 70% up to 90% of the
156 amount authorized in Section 53-2a-605 over the previous five fiscal years; or

157 (iii) the state's prime interest rate at the time of loan closing, plus 4%, with a maximum
158 payback period of three years if the applicant has reserved an average of 50% up to 70% of the
159 amount authorized in Section 53-2a-605 over the previous five fiscal years; and

160 (b) the division may not authorize a loan from this fund on any terms or conditions to
161 local government entities that have reserved an average of less than 50% of the amount
162 authorized in Section 53-2a-605 over the previous five fiscal years.

163 (3) If the division receives multiple loan applications concurrently, priority shall be
164 given to applicants based on the extent of their participation in the reserve account authorized
165 in Section 53-2a-605.

166 Section 4. Section **53-2a-609** is enacted to read:

167 **53-2a-609. Division to make rules to administer the loan program.**

168 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
169 division shall make rules establishing:

170 (1) form, content, and procedure for loan and grant applications;

171 (2) criteria and procedures for prioritizing loan and grant applications;

172 (3) requirements and procedures for securing loans and grants;

173 (4) procedures for making loans;

174 (5) procedures for administering and ensuring repayment of loans, including late
175 payment penalties; and

176 (6) procedures for recovering on defaulted loans.

177 Section 5. Section **63J-1-314** is amended to read:

178 **63J-1-314. Deposits related to the Disaster Recovery Funding Act.**

179 (1) As used in this section, "operating deficit" means that, at the end of the fiscal year,
180 the unassigned fund balance in the General Fund is less than zero.

181 (2) Except as provided under [Subsection] Subsections (3) and (4), at the end of each
182 fiscal year, the Division of Finance shall, after the transfer of General Fund revenue surplus has

183 been made to the Medicaid Growth Reduction and Budget Stabilization Account, as provided
184 in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section
185 63J-1-312, transfer an amount into the State Disaster Recovery Restricted Account, created in
186 Section 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312,
187 calculated by:

188 (a) determining the amount of General Fund revenue surplus after the transfer to the
189 Medicaid Growth Reduction and Budget Stabilization Account under Section 63J-1-315 and
190 the General Fund Budget Reserve Account under Section 63J-1-312;

191 (b) calculating an amount equal to the lesser of:

192 (i) 25% of the amount determined under Subsection (2)(a); or

193 (ii) 6% of the total of the General Fund appropriation amount for the fiscal year in
194 which the surplus occurs; and

195 (c) adding to the amount calculated under Subsection (2)(b) an amount equal to the
196 lesser of:

197 (i) 25% more of the amount described in Subsection (2)(a); or

198 (ii) the amount necessary to replace, in accordance with this Subsection (2)(c), any
199 amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal
200 years before the fiscal year in which the surplus occurs if:

201 (A) a surplus exists; and

202 (B) the Legislature appropriates money from the State Disaster Recovery Restricted
203 Account that is not replaced by appropriation or as provided in this Subsection (2)(c).

204 (3) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of
205 Finance determines that an operating deficit exists, the division shall reduce the transfer to the
206 State Disaster Recovery Restricted Account by the amount necessary to eliminate the operating
207 deficit.

208 (4) Notwithstanding Subsection (2):

209 (a) for the period beginning July 1, 2015, and ending June 30, 2020, the Division of
210 Finance shall transfer to the Local Government Emergency Response Loan Fund 25% of the
211 amount to be transferred into the State Disaster Recovery Restricted Account as provided in
212 Subsection (2)(b); and

213 (b) on and after July 1, 2020, the Division of Finance shall transfer to the Local

214 Government Emergency Response Loan Fund 10% of the amount to be transferred into the
215 State Disaster Recovery Restricted Account as provided in Subsection (2)(b).

Legislative Review Note
as of 2-16-15 5:05 PM

Office of Legislative Research and General Counsel