

# HB0388S01 compared with HB0388

~~{deleted text}~~ shows text that was in HB0388 but was deleted in HB0388S01.

inserted text shows text that was not in HB0388 but was inserted into HB0388S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Curtis Oda proposes the following substitute bill:

## 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;

## HB0388S01 compared with HB0388

- ▶ 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

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

53-2a-602, as last amended by Laws of Utah 2013, Chapter 117 and renumbered and amended by Laws of Utah 2013, Chapter 295

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

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

ENACTS:

53-2a-607, Utah Code Annotated 1953

53-2a-608, Utah Code Annotated 1953

53-2a-609, Utah Code Annotated 1953

---

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

Section 1. Section 53-2a-602 is amended to read:

#### **53-2a-602. Definitions.**

(1) Unless otherwise defined in this section, the terms defined in Part 1, Emergency Management Act, shall have the same meaning for this part.

(2) As used in this part:

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

(i) within the state;

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

## HB0388S01 compared with HB0388

(iii) that involve:

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

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

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

and

(v) that results in:

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

(B) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(C) the chief executive officer of a local government declaring a local emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

(b) "Disaster recovery fund" means the State Disaster Recovery Restricted Account created in Section 53-2a-603.

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

(i) the purchase of equipment;

(ii) the training of personnel; or

(iii) the obtaining of a certification.

(d) (i) "Emergency disaster services" means the following:

(A) evacuation;

(B) shelter;

(C) medical triage;

(D) emergency transportation;

(E) repair of infrastructure;

(F) safety services, including fencing or roadblocks;

(G) sandbagging;

(H) debris removal;

(I) temporary bridges;

(J) procurement and distribution of food, water, or ice;

## HB0388S01 compared with HB0388

(K) procurement and deployment of generators;

(L) rescue or recovery;

(M) emergency protective measures; or

(N) services similar to those described in Subsections (2)(d)(i)(A) through (M), as defined by the division by rule, that are generally required in response to a declared disaster.

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

(A) emergency preparedness; or

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

(e) "Governing body" means:

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

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

(iii) for a special service district:

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

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

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

(g) "Local fund" means a local government disaster fund created in accordance with Section 53-2a-605.

(h) "Local government" means:

(i) a county;

(ii) a city or town; or

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

(A) operates a water system;

(B) provides transportation service;

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

(D) provides consolidated 911 and emergency dispatch service;

## HB0388S01 compared with HB0388

(E) operates an airport; or

(F) operates a sewage system.

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

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

(k) "State's prime interest rate" means the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold.

Section ~~11~~2. Section **53-2a-603** is amended to read:

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

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

(b) The disaster recovery fund shall consist of:

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

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

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

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

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

(I) the division; or

(II) the person giving the money.

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

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

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed \$250,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds \$250,000, but does not exceed \$1,000,000, in accordance

## HB0388S01 compared with HB0388

with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

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

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

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

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

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

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

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

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

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

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

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland

## HB0388S01 compared with HB0388

Fire Suppression Fund[-]; and

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

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

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

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

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

(5) The division:

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

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

Section ~~{2}~~3. Section **53-2a-607** is enacted to read:

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

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

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

(2) The fund shall consist of:

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

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

(c) interest earned on the fund; and

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

(3) The money in the fund shall be invested by the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that

## HB0388S01 compared with HB0388

all interest or other earnings derived from money in the fund shall be deposited into the fund.

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

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

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

(5) The division may not loan out:

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

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

Section ~~53-4~~4. Section **53-2a-608** is enacted to read:

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

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

(a) provide loans to local government entities for:

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

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

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

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

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

(i) the state's prime interest rate at the time of loan closing, plus zero percent, with a maximum payback period of 10 years if the applicant has reserved an average of 90% to 100% of the amount authorized in Section 53-2a-605 over the previous five fiscal years;

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



## HB0388S01 compared with HB0388

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

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

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

Section ~~{4}~~5. Section **53-2a-609** is enacted to read:

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

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

- (1) form, content, and procedure for loan and grant applications;
- (2) criteria and procedures for prioritizing loan and grant applications;
- (3) requirements and procedures for securing loans and grants;
- (4) procedures for making loans;
- (5) procedures for administering and ensuring repayment of loans, including late payment penalties; and
- (6) procedures for recovering on defaulted loans.

Section ~~{5}~~6. Section **63J-1-314** is amended to read:

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

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

(2) Except as provided under [~~Subsection~~] Subsections (3) and (4), at the end of each fiscal year, the Division of Finance shall, after the transfer of General Fund revenue surplus has been made to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section 63J-1-312, transfer an amount into the State Disaster Recovery Restricted Account, created in Section 53-2a-603, from the General Fund revenue surplus as defined in Section 63J-1-312, calculated by:

## HB0388S01 compared with HB0388

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

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

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

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

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

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

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

(A) a surplus exists; and

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

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

(4) Notwithstanding Subsection (2):

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

(b) on and after July 1, 2020, the Division of Finance shall transfer to the Local Government Emergency Response Loan Fund 10% of the amount to be transferred into the State Disaster Recovery Restricted Account as provided in Subsection (2)(b).

†

**HB0388S01 compared with HB0388**

**Legislative Review Note**

~~as of 2-16-15 5:05 PM~~

~~Office of Legislative Research and General Counsel~~