Representative Timothy D. Hawkes proposes the following substitute bill:

LOCAL GOVERNMENT EMERGENCY RESPONSE
2020 THIRD SPECIAL SESSION
STATE OF UTAH

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Jacob L. Anderegg

LONG TITLE
General Description:
This bill enacts provisions related to local government response during a declared emergency.

Highlighted Provisions:
This bill:
- defines terms;
- provides certain limits on jurisdiction-wide orders responding to a declared emergency with legislative body and, in certain circumstances, gubernatorial oversight;
- provides for electronic meetings, in certain circumstances, for a local legislative body to take actions regarding a jurisdiction-wide local order;
- provides certain flexibility in local government budgetary and fiscal procedures in response to a declared emergency;
- allows for extensions for certain local government receipt and deposit requirements;
- prohibits a county auditor from conducting a tax sale during a declared emergency;
- allows a local government to conduct certain transactions electronically;
- provides for additional extraordinary circumstances that allow a local governmental entity to delay responding to a records request;
extends deadlines for posting minutes of public local meetings;

restricts certain local health department authority during a declared emergency to
cosigning jurisdiction-wide local orders that a local chief executive issues rather
than independently issuing an order; and

requires a local health department to consult with and make recommendations to
local chief executives and legislative bodies regarding jurisdiction-wide local
orders.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides revisor instructions.

**Utah Code Sections Affected:**

ENACTS:

11-65-101, Utah Code Annotated 1953
11-65-102, Utah Code Annotated 1953
11-65-103, Utah Code Annotated 1953
11-65-104, Utah Code Annotated 1953
11-65-201, Utah Code Annotated 1953
11-65-301, Utah Code Annotated 1953
11-65-302, Utah Code Annotated 1953
11-65-303, Utah Code Annotated 1953
11-65-401, Utah Code Annotated 1953
11-65-402, Utah Code Annotated 1953
11-65-403, Utah Code Annotated 1953
26A-2-101, Utah Code Annotated 1953
26A-2-102, Utah Code Annotated 1953
26A-2-103, Utah Code Annotated 1953
26A-2-201, Utah Code Annotated 1953

**Utah Code Sections Affected by Revisor Instructions:**

11-65-201, Utah Code Annotated 1953
Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-65-101 is enacted to read:

CHAPTER 65. LOCAL GOVERNMENT EMERGENCY RESPONSE


11-65-101. Title.

This chapter is known as "Local Government Emergency Response."

Section 2. Section 11-65-102 is enacted to read:


As used in this chapter:

(1) "Chief executive" means:

(a) for a municipality:
   (i) except for a municipality described in Subsection (1)(a)(ii), the mayor; or
   (ii) for a municipality operating under the council-manager form of government described in Subsection 10-3b-103(7), the city manager; or
   (b) for a county:
      (i) the chair of the county commission for a county operating under the county commission or expanded county commission form of government under Section 17-52a-201 or 17-52a-202;
      (ii) the county executive officer for a county operating under the county-executive council form of government under Section 17-52a-203; or
      (iii) the county manager for a county operating under the council-manager form of government under Section 17-52a-204.

(2) "Declared emergency" means, in accordance with Title 53, Chapter 2a, Emergency Management Act:

   (a) a local emergency that the chief executive officer of a municipality or county declares; or

   (b) a state of emergency that the governor declares.

(3) (a) "Jurisdiction-wide local order" means an order, rule, or regulation, issued for the protection of the public health in response to a declared emergency, that applies:

   (i) (A) for a municipality, municipality-wide; or
(B) for a county, county-wide; and
(ii) to all or substantially all:
(A) individuals or a certain class of individuals; or
(B) public places or a certain class of public places.
(b) (i) "Jurisdiction-wide local order" does not mean an order, rule, or regulation that:
(A) is not generally applicable as described in Subsection (3)(a); or
(B) does not respond to the declared emergency; or
(ii) the governor issues.
(4) "Legislative body" means:
(a) for a municipality, the council of the municipality; or
(b) for a county:
(i) the county commission, for a county operating under the county commission or the expanded county commission form of government under Section 17-52a-201 or 17-52a-202; or
(ii) the county council, for a county operating under the county executive and council form of government under Section 17-52a-203 or the council-manager form of government under Section 17-52a-204.
(5) "Local emergency" means the same as that term is defined in Section 53-2a-203.
(6) "Local health department" means the same as that term is defined in Section 26A-1-102.
(7) "Municipality" means a city, town, or metrotownship.
(8) "Political subdivision" means a municipality or a county.
(9) "State of emergency" means a state of emergency that the governor declares by executive order in accordance with Title 53, Chapter 2a, Emergency Management Act.

Section 3. Section 11-65-103 is enacted to read:

The immunity described in Subsection 63G-7-201(2)(a) includes immunity from suit for any injury or damage resulting from the implementation of or the failure to implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in this chapter.

Section 4. Section 11-65-104 is enacted to read:
11-65-104. Relation to other law -- Suspension.

(1) This chapter supersedes any conflicting provision of the Utah Code.

(2) Notwithstanding any other provision of law, the governor may not suspend the application or enforcement of this chapter.

Section 5. Section 11-65-201 is enacted to read:

Part 2. Jurisdiction-Wide Local Orders

11-65-201. Jurisdiction-wide local order review process during a declared emergency.

(1) During a declared emergency, a jurisdiction-wide local order may not be issued unless the issuer's legal counsel has reviewed the proposed order and approved the order as to form and legality.

(2) A jurisdiction-wide local order expires:

(a) immediately upon the governor's veto or the legislative body's revocation; or

(b) unless the order specifies an earlier expiration date, 14 days after:

(i) the day on which the order is issued; or

(ii) if the legislative body reauthorizes the order, the day on which the legislative body makes the reauthorization.

(3) If the governor declares a state of emergency in accordance with Title 53, Chapter 2a, Emergency Management Act, and a jurisdiction-wide local order is issued in response to the declared emergency, the governor may veto the jurisdiction-wide local order, in whole or in part, only to promote consistency with state-wide or other jurisdiction-wide local orders responding to the declared emergency, at any time, including after a legislative body has modified or reauthorized the order.

(4) (a) The relevant legislative body may:

(i) unless the governor has vetoed the order, modify or revoke a jurisdiction-wide local order at any time; and

(ii) reauthorize a jurisdiction-wide local order expiring under Subsection (2)(b).

(b) If the relevant legislative body is unable to physically meet due to the declared emergency, the legislative body may convene a meeting electronically to take an action described in Subsection (4)(a), notwithstanding:

(i) if the declared emergency necessitates immediate action, the 24-hour notice
(e).

(5) (a) Without the governor's authorization, a jurisdiction-wide local order that the governor vetoes under Subsection (3) may not be re-issued.

(b) Without the relevant legislative body's authorization, a jurisdiction-wide local order that the legislative body revoked or did not reauthorize under Subsection (4) may not be re-issued.

(6) In response to a declared emergency, the following shall consult with the relevant local health department regarding jurisdiction-wide local orders:

(a) a chief executive; and

(b) a legislative body, including in reauthorizing, modifying, or revoking a jurisdiction-wide local order.

(7) Any jurisdiction-wide order, rule, or regulation issued in response to a declared emergency by a chief executive, legislative body, or local health department on or before the effective date of this bill:

(a) expires on May 1, 2020, unless the order specifies an earlier expiration date; and

(b) is subject to the relevant legislative body's reauthorization, modification, or revocation in accordance with Subsection (4).

Section 6. Section 11-65-301 is enacted to read:

**Part 3. Budgets and Fiscal Procedures**

**11-65-301. Budget flexibility.**

(1) (a) Subject to constitutional restrictions on the use of a tax and except as provided in Subsection (1)(b), a legislative body may respond to a declared emergency, in the same fiscal year in which the declaration of the emergency is issued, by transferring, increasing, or decreasing an appropriation in a budget or fund of the respective political subdivision.
(b) Subsection (1)(a) does not apply to revenue derived from the imposition of a tax that the voters of the respective political subdivision approved in an election.

(c) In responding to a declared emergency under this Subsection (1), the relevant town or council or county legislative body shall prioritize payments on bond obligations as the first priority.

(2) Subject to constitutional restrictions on the use of revenue derived from a tax, a legislative body may respond to a declared emergency by increasing the accumulation of a general fund balance above the limit described in Section 10-6-116 or 17-36-16 during:

(a) the declared emergency; and

(b) the subsequent two fiscal periods after the declared emergency has ended.

(3) (a) Notwithstanding Subsection 10-6-111(1)(a) and for calendar year 2020, the legislative body by resolution may authorize that on or before the last regularly scheduled meeting of the governing body in May, the budget officer shall, in accordance with Subsection 10-6-111(1)(b), prepare for fiscal year beginning July 1, 2020, and file with the governing body, a tentative budget for each fund for which a budget is required.

(b) Notwithstanding Subsection 10-5-107(1)(a) and for calendar year 2020, the legislative body by resolution may authorize that on or before the last scheduled meeting of the governing body in May, the mayor shall, in accordance with Subsection 10-5-107(1)(b):

(i) prepare for the ensuing year a tentative budget for each fund for which a budget is required;

(ii) make the budget available for public inspection; and

(iii) submit the tentative budget to the town council.

Section 7. Section 11-65-302 is enacted to read:

11-65-302. Extension of receipt and deposit requirements.

(1) (a) During a declared emergency, if an officer of a political subdivision submits a request to the political subdivision legislative body or chief executive to extend the deposit requirement described in Section 51-4-2, the legislative body or chief executive may issue an emergency or similar proclamation that:

(i) declares the reason the declared emergency necessitates an extension of the deposit requirement; and

(ii) establishes the duration of the extension, not to exceed three months.
(b) The requirement for an officer of a political subdivision to make deposits described in Subsection 51-4-2(2)(a) is extended from three to five banking days if the legislative body or chief executive issues a proclamation described in Subsection (1)(a).

(2) (a) During a declared emergency, if a city treasurer submits a request to the political subdivision legislative body or chief executive to extend the receipt requirement described in Subsection 10-6-141(2)(b), the city council or chief executive may issue an emergency or similar proclamation that:

(i) declares the reason the declared emergency necessitates an extension of the receipt requirement; and

(ii) establishes the duration of the extension, not to exceed three months.

(b) The requirement for a city treasurer to receive public funds described in Subsection 10-6-141(2)(b) is extended from three to five banking days if the city council or chief executive issues a proclamation described in Subsection (2)(a).

Section 8. Section 11-65-303 is enacted to read:

**11-65-303. County tax sale during a declared emergency.**

During a declared emergency in which a county auditor is unable to safely conduct a tax sale in person at a public auction due to the declared emergency, the county auditor may not conduct a tax sale.

Section 9. Section 11-65-401 is enacted to read:

**Part 4. Local Government Operation**

**11-65-401. Electronic transactions.**

(1) During a declared emergency, a political subdivision that administers a transaction described in Subsection 46-4-503(1) may conduct the transaction electronically.

(2) A political subdivision described in Subsection (1):

(a) is subject to the requirements described in Subsection 46-4-503(3); and

(b) is not required to conduct a transaction electronically in the circumstances described in Subsection 46-4-503(4).

(3) (a) During a declared emergency in which in-person interaction is contrary to a jurisdiction-wide local order or a state-wide public health directive from the governor to maintain social distancing, a state law that requires a person to appear physically in person to complete a transaction related to the provision of a government good or service that can
otherwise be conducted remotely or via electronic means is waived for 30 days after the day on which the emergency is declared.

(b) The legislative body of a political subdivision may adopt a resolution to extend the waiver described in Subsection (3)(a) for a period beyond the initial 30 days, not to exceed the period of the declared emergency.

(c) For purposes of this Subsection (3):

(i) services that the political subdivision may conduct may include marriage ceremonies; and

(ii) the political subdivision may conduct personal appearances related to administering oaths or similar appearances through two-way video.

(4) During a declared emergency, the plat signature requirements described in Section 10-9a-604 or 17-27a-604 and any local requirements for condominium plat signatures described in Title 57, Chapter 8, Condominium Ownership Act, may be satisfied by an electronic signature as stated in Section 46-4-201.

Section 10. Section 11-65-402 is enacted to read:

11-65-402. Responding to records requests.

(1) As used in this section, "record" means the same as that term is defined in Section 63G-2-103.

(2) During a declared emergency, the following constitute "extraordinary circumstances" described in Subsection 63G-2-204(6) that allow a political subdivision to delay approval or denial of a records request if the political subdivision determines that due to the extraordinary circumstances the political subdivision cannot respond within the time limits provided in Subsection 63G-2-204(4):

(a) a jurisdiction-wide local order that imposes isolation, quarantine, or a stay-at-home order;

(b) the closure of the political subdivision's office to comply with:

(i) a jurisdiction-wide local order issued in response to the declared emergency; or

(ii) a directive from the governor or a political subdivision chief executive or legislative body regarding isolation or quarantine; or

(c) other circumstances directly related to the declared emergency that limit personnel access to equipment, records, or offices necessary to respond to the records request.
274 (3) For the extraordinary circumstances described in Subsection (2), the political
275 subdivision shall disclose the requested records as soon as reasonably possible.
276 Section 11.  Section 11-65-403 is enacted to read:
277 11-65-403. Making meeting minutes publicly available.
278 During a declared emergency:
279 (1) the requirement under Subsection 52-4-203(4)(f)(i) for a political subdivision to
280 make pending minutes available to the public is extended from within 30 days to within 60
281 days after holding the open meeting that is the subject of the pending minutes;
282 (2) the requirement under Subsection 52-4-203(4)(f)(ii) for a political subdivision to
283 post and make available a copy of the approved minutes is extended from within three business
284 days to within 10 business days after approving written minutes of an open meeting; and
285 (3) a political subdivision is not subject to the requirement under Subsection
286 52-4-203(4)(e)(ii)(B) to make approved minutes and public materials available to the public at
287 the political subdivision's primary office.
288 Section 12. Section 26A-2-101 is enacted to read:
289 CHAPTER 2. DECLARED EMERGENCIES
291 26A-2-101. Title.
292 This chapter is known as "Declared Emergencies."
293 Section 13. Section 26A-2-102 is enacted to read:
295 As used in this chapter:
296 (1) "Chief executive" means the same as that term is defined in Section 11-65-102.
297 (2) "Declared emergency" means the same as that term is defined in Section 11-65-102.
298 (3) "Jurisdiction-wide local order" means the same as that term is defined in Section
299 11-65-102.
300 (4) "Legislative body" means the same as that term is defined in Section 11-65-102.
301 Section 14. Section 26A-2-103 is enacted to read:
302 26A-2-103. Relation to other law -- Suspension.
303 (1) This chapter supersedes any conflicting provision of the Utah Code.
304 (2) Notwithstanding any other provision of law, the governor may not suspend the
application or enforcement of this chapter.

Section 15. Section 26A-2-201 is enacted to read:

Part 2. Jurisdiction-Wide Local Orders During a Declared Emergency

26A-2-201. Local health department role during a declared emergency.

During a declared emergency, a local health department:

(1) may not issue a jurisdiction-wide local order without the co-signature of the chief executive for the political subdivision which the order will impact; and

(2) shall consult with and make recommendations to the chief executive and legislative body of a political subdivision included in the area that the local health department serves regarding the declared emergency and any contemplated or issued jurisdiction-wide local order in the political subdivision.

Section 16. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 17. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the references in Section 11-65-201 from "the effective date of this bill" to the bill's actual effective date.