

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;



- 26 ▶ extends deadlines for posting minutes of public local meetings;
- 27 ▶ restricts certain local health department authority during a declared emergency to
- 28 cosigning jurisdiction-wide local orders that a local chief executive issues rather
- 29 than independently issuing an order; and
- 30 ▶ requires a local health department to consult with and make recommendations to
- 31 local chief executives and legislative bodies regarding jurisdiction-wide local
- 32 orders.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill provides a special effective date.

37 This bill provides revisor instructions.

38 **Utah Code Sections Affected:**

39 ENACTS:

40 **11-65-101**, Utah Code Annotated 1953

41 **11-65-102**, Utah Code Annotated 1953

42 **11-65-103**, Utah Code Annotated 1953

43 **11-65-104**, Utah Code Annotated 1953

44 **11-65-201**, Utah Code Annotated 1953

45 **11-65-301**, Utah Code Annotated 1953

46 **11-65-302**, Utah Code Annotated 1953

47 **11-65-303**, Utah Code Annotated 1953

48 **11-65-401**, Utah Code Annotated 1953

49 **11-65-402**, Utah Code Annotated 1953

50 **11-65-403**, Utah Code Annotated 1953

51 **26A-2-101**, Utah Code Annotated 1953

52 **26A-2-102**, Utah Code Annotated 1953

53 **26A-2-103**, Utah Code Annotated 1953

54 **26A-2-201**, Utah Code Annotated 1953

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

56 **11-65-201**, Utah Code Annotated 1953

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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

Part 1. General Provisions

11-65-101. Title.

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

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

11-65-102. Definitions.

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

- 88 (B) for a county, county-wide; and
- 89 (ii) to all or substantially all:
- 90 (A) individuals or a certain class of individuals; or
- 91 (B) public places or a certain class of public places.
- 92 (b) (i) "Jurisdiction-wide local order" does not mean an order, rule, or regulation that:
- 93 (A) is not generally applicable as described in Subsection (3)(a); or
- 94 (B) does not respond to the declared emergency; or
- 95 (ii) the governor issues.
- 96 (4) "Legislative body" means:
- 97 (a) for a municipality, the council of the municipality; or
- 98 (b) for a county:
- 99 (i) the county commission, for a county operating under the county commission or the
- 100 expanded county commission form of government under Section [17-52a-201](#) or [17-52a-202](#); or
- 101 (ii) the county council, for a county operating under the county executive and council
- 102 form of government under Section [17-52a-203](#) or the council-manager form of government
- 103 under Section [17-52a-204](#).
- 104 (5) "Local emergency" means the same as that term is defined in Section [53-2a-203](#).
- 105 (6) "Local health department" means the same as that term is defined in Section
- 106 [26A-1-102](#).
- 107 (7) "Municipality" means a city, town, or metrotownship.
- 108 (8) "Political subdivision" means a municipality or a county.
- 109 (9) "State of emergency" means a state of emergency that the governor declares by
- 110 executive order in accordance with Title 53, Chapter 2a, Emergency Management Act.

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

112 **11-65-103. Immunity.**

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

118 Section 4. Section **11-65-104** is enacted to read:

119 **11-65-104. Relation to other law -- Suspension.**

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

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

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

124 **Part 2. Jurisdiction-Wide Local Orders**

125 **11-65-201. Jurisdiction-wide local order review process during a declared**
126 **emergency.**

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

130 (2) A jurisdiction-wide local order expires:

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

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

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

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

136 (3) If the governor declares a state of emergency in accordance with Title 53, Chapter
137 2a, Emergency Management Act, and a jurisdiction-wide local order is issued in response to
138 the declared emergency, the governor may veto the jurisdiction-wide local order, in whole or in
139 part, only to promote consistency with state-wide or other jurisdiction-wide local orders
140 responding to the declared emergency, at any time, including after a legislative body has
141 modified or reauthorized the order.

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

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

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

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

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

150 requirement in Subsection 52-4-202(1)(a)(i);

151 (ii) the physical posting requirement in Subsections 52-4-202(3)(a)(i)(A) and

152 52-4-207(3)(a)(ii) or any other physical posting requirement under Utah law if:

153 (A) the required posting is impracticable due to the declared emergency; and

154 (B) the legislative body takes reasonable steps to provide equivalent notice;

155 (iii) the electronic meetings policy requirement in Subsection 52-4-207(2); or

156 (iv) the anchor location requirements in Subsections 52-4-207(3)(a)(ii), (c), (d), and

157 (e).

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

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

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

165 (a) a chief executive; and

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

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

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

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

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

175 **Part 3. Budgets and Fiscal Procedures**

176 **11-65-301. Budget flexibility.**

177 (1) (a) Subject to constitutional restrictions on the use of a tax and except as provided
178 in Subsection (1)(b), a legislative body may respond to a declared emergency, in the same
179 fiscal year in which the declaration of the emergency is issued, by transferring, increasing, or
180 decreasing an appropriation in a budget or fund of the respective political subdivision.

181 (b) Subsection (1)(a) does not apply to revenue derived from the imposition of a tax
182 that the voters of the respective political subdivision approved in an election.

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

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

189 (a) the declared emergency; and

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

191 (3) (a) Notwithstanding Subsection 10-6-111(1)(a) and for calendar year 2020, the
192 legislative body by resolution may authorize that on or before the last regularly scheduled
193 meeting of the governing body in May, the budget officer shall, in accordance with Subsection
194 10-6-111(1)(b), prepare for fiscal year beginning July 1, 2020, and file with the governing
195 body, a tentative budget for each fund for which a budget is required.

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

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

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

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

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

204 **11-65-302. Extension of receipt and deposit requirements.**

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

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

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

212 (b) The requirement for an officer of a political subdivision to make deposits described
213 in Subsection 51-4-2(2)(a) is extended from three to five banking days if the legislative body or
214 chief executive issues a proclamation described in Subsection (1)(a).

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

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

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

222 (b) The requirement for a city treasurer to receive public funds described in Subsection
223 10-6-141(2)(b) is extended from three to five banking days if the city council or chief executive
224 issues a proclamation described in Subsection (2)(a).

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

226 **11-65-303. County tax sale during a declared emergency.**

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

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

231 **Part 4. Local Government Operation**

232 **11-65-401. Electronic transactions.**

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

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

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

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

239 (3) (a) During a declared emergency in which in-person interaction is contrary to a
240 jurisdiction-wide local order or a state-wide public health directive from the governor to
241 maintain social distancing, a state law that requires a person to appear physically in person to
242 complete a transaction related to the provision of a government good or service that can

243 otherwise be conducted remotely or via electronic means is waived for 30 days after the day on
244 which the emergency is declared.

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

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

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

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

253 (4) During a declared emergency, the plat signature requirements described in Section
254 10-9a-604 or 17-27a-604 and any local requirements for condominium plat signatures
255 described in Title 57, Chapter 8, Condominium Ownership Act, may be satisfied by an
256 electronic signature as stated in Section 46-4-201.

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

258 **11-65-402. Responding to records requests.**

259 (1) As used in this section, "record" means the same as that term is defined in Section
260 63G-2-103.

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

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

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

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

270 (ii) a directive from the governor or a political subdivision chief executive or

271 legislative body regarding isolation or quarantine; or

272 (c) other circumstances directly related to the declared emergency that limit personnel
273 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**

290 **Part 1. General Provisions**

291 **26A-2-101. Title.**

292 This chapter is known as "Declared Emergencies."

293 Section 13. Section **26A-2-102** is enacted to read:

294 **26A-2-102. Definitions.**

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

305 application or enforcement of this chapter.

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

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

308 **26A-2-201. Local health department role during a declared emergency.**

309 During a declared emergency, a local health department:

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

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

316 Section 16. **Effective date.**

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

321 Section 17. **Revisor instructions.**

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