

EMERGENCY EXECUTIVE POWERS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to the epidemic emergency procurement process.

Highlighted Provisions:

This bill:

► ~~H~~→ [reduces] amends ~~H~~ the amount the governor may spend for an emergency procurement during an epidemic or pandemic ~~H~~→ before notice has to be provided to the Legislature ~~H~~ ;

- details the notice requirements after an emergency procurement; and
► requires that a copy of the contract shall be made available to legislators.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-2a-217, as enacted by Laws of Utah 2020, Fifth Special Session, Chapter 7

63G-6a-803, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 53-2a-217 is amended to read:

53-2a-217. Procurement process during an epidemic or pandemic emergency.



28 (1) As used in this section, "epidemic or pandemic disease" means the same as that
29 term is defined in Section 53-2a-215.

30 (2) (a) During a state of emergency declared as described in Section 53-2a-206 that is
31 in response or related to an epidemic or pandemic disease emergency, or during a national
32 epidemic or pandemic emergency, the governor shall provide notice to the Legislature within
33 24 hours after an expenditure or procurement, if the expenditure or procurement:

- 34 (i) uses federal funds received as described in Subsection 53-2a-204(1)(m);
- 35 (ii) totals more than [~~\$2,000,000~~] \$1,000,000 or includes a line item of more than
36 [~~\$2,000,000~~] \$1,000,000; and
- 37 (iii) is made using emergency procurement processes as described in Section
38 63G-6a-803.

39 (b) The governor may not divide an expenditure or procurement into multiple
40 expenditures or procurements to fall below the [~~\$2,000,000~~] \$1,000,000 threshold described in
41 Subsection (2)(a)(ii).

42 (3) The notice in Subsection (2)(a) shall contain the following information:

- 43 (a) an accounting of items purchased or funded;
- 44 (b) who payment was or is to be made to;
- 45 (c) when payment was or is to be made; and
- 46 (d) how much was or is to be paid.

47 (4) A copy of the contract or contracts shall be provided to a legislator upon request.

48 Section 2. Section **63G-6a-803** is amended to read:

49 **63G-6a-803. Emergency procurement.**

50 (1) Notwithstanding any other provision of this chapter, a procurement official may
51 authorize a procurement unit to engage in an emergency procurement without using a standard
52 procurement process if the procurement is necessary to:

- 53 (a) avoid a lapse in a critical government service;
- 54 (b) mitigate a circumstance that is likely to [~~have a negative impact on~~] cause
55 **H→** irreparable **substantial** **←H** harm to public health, safety, welfare, or property; or
- 56 (c) protect the legal interests of a public entity.

57 (2) A procurement unit conducting an emergency procurement under Subsection (1)
58 shall:

- 59 (a) ensure that the procurement is made with as much competition as reasonably
60 practicable while:
- 61 (i) avoiding a lapse in a critical government service;
 - 62 (ii) avoiding ~~fi~~ **[irreparable] substantial** ~~fi~~ harm[, or a risk of harm, to the] to public
62a health, safety,
63 welfare, or property; or
 - 64 (iii) protecting the legal interests of a public entity; and
- 65 (b) after the emergency has abated, prepare a written document explaining the
66 emergency condition that necessitated the emergency procurement under Subsection (1).