

EMERGENCY EXECUTIVE POWERS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Andrew Stoddard

Senate Sponsor: Michael K. McKell

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 ~~irreparable~~ **substantial** ~~harm~~ 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 ~~H~~→ **irreparable** **substantial** ←~~H~~ 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).