

Enrolled
House Bill 2370

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CHAPTER

AN ACT

Relating to Oregon security; creating new provisions; amending ORS 195.260, 401.025, 401.055, 401.270, 401.275, 401.280, 401.300, 401.337, 401.347, 401.425, 401.445, 401.535, 401.555, 401.710, 401.785, 401.871, 401.872, 401.874, 453.342, 466.635, 824.088 and 837.035; repealing ORS 401.260; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS 401.260 to 401.325.

SECTION 2. (1) The Office of Emergency Management is established in the Oregon Military Department.

(2) The office shall be responsible for:

(a) Coordinating and facilitating private sector and governmental efforts to prevent, prepare for, respond to and recover from emergencies; and

(b) Coordinating exercises and training, planning, preparedness, response, mitigation and recovery activities with state and local emergency services agencies and organizations.

SECTION 3. (1) The Office of Emergency Management is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers of the office.

(2) The Adjutant General, with the approval of the Governor, shall appoint the Director of the Office of Emergency Management, who holds office at the pleasure of the Adjutant General.

(3) The director shall be paid a salary as provided by law or, if not so provided, as prescribed by the Adjutant General, with the approval of the Governor.

(4) For purposes of administration, subject to the approval of the Adjutant General, the director may organize and reorganize the office as the director considers necessary to properly conduct the work of the office.

(5) The director may divide the functions of the office into administrative divisions. Subject to the approval of the Adjutant General, the director may appoint an individual to administer each division. The administrator of each division serves at the pleasure of the director and is not subject to the provisions of ORS chapter 240. Each individual appointed under this subsection must be well qualified by technical training and experience in the functions to be performed by the individual.

SECTION 4. (1) The Director of the Office of Emergency Management may, by written order filed with the Secretary of State, appoint a deputy director. The deputy director serves

at the pleasure of the director, has authority to act for the director in the absence of the director and is subject to the control of the director at all times.

(2) Subject to any applicable provisions of ORS chapter 240, the director shall appoint all subordinate officers and employees of the Office of Emergency Management, prescribe their duties and fix their compensation.

SECTION 5. In accordance with applicable provisions of ORS chapter 183, the Director of the Office of Emergency Management may adopt rules necessary for the administration of the laws that the Office of Emergency Management is charged with administering.

SECTION 6. (1) To aid and advise the Director of the Office of Emergency Management in the performance of the functions of the Office of Emergency Management, the director may establish such advisory and technical committees as the director considers necessary. The committees may be continuing or temporary. The director shall determine the representation, membership, terms and organization of the committees and shall appoint their members. The director is an ex officio member of each committee.

(2) Members of the committees are not entitled to compensation, but in the discretion of the director may be reimbursed from funds available to the office for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.

SECTION 7. The Director of the Office of Emergency Management may enter into interagency agreements with other state agencies that the director determines are necessary to carry out the duties of the Office of Emergency Management.

SECTION 8. (1) The following departments shall designate a person within each department to act as a liaison with the Office of Emergency Management:

- (a) The Department of Transportation;
- (b) The State Department of Agriculture;
- (c) The Department of Environmental Quality;
- (d) The Department of Human Services;
- (e) The State Department of Energy;
- (f) The Oregon Department of Administrative Services;
- (g) The Department of State Police;
- (h) The State Department of Geology and Mineral Industries; and
- (i) The Oregon Military Department.

(2) Each person designated as a liaison under subsection (1) of this section shall assist in the coordination of the functions of the person's department that relate to emergency preparedness and response with similar functions of the Office of Emergency Management.

SECTION 9. (1) The Office of Emergency Management in the Department of State Police is abolished. On the operative date of this section, the tenure of office of the Director of the Office of Emergency Management ceases.

(2) All the duties, functions and powers of the Office of Emergency Management in the Department of State Police are imposed upon, transferred to and vested in the Office of Emergency Management in the Oregon Military Department.

SECTION 10. (1) The Superintendent of State Police shall:

(a) Deliver to the Office of Emergency Management in the Oregon Military Department all records and property within the jurisdiction of the superintendent that relate to the duties, functions and powers transferred by section 9 of this 2007 Act; and

(b) Transfer to the Office of Emergency Management in the Oregon Military Department those employees engaged primarily in the exercise of the duties, functions and powers transferred by section 9 of this 2007 Act.

(2) The Director of the Office of Emergency Management in the Oregon Military Department shall take possession of the records and property, and shall take charge of the employees and employ them in the exercise of the duties, functions and powers transferred

by section 9 of this 2007 Act, without reduction of compensation but subject to change or termination of employment or compensation as provided by law.

(3) The Adjutant General shall resolve any dispute between the Office of Emergency Management in the Department of State Police and the Office of Emergency Management in the Oregon Military Department relating to transfers of records, property and employees under this section, and the Adjutant General's decision is final.

SECTION 11. (1) The unexpended balances of amounts authorized to be expended by the Office of Emergency Management in the Department of State Police for the biennium beginning July 1, 2007, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers transferred by section 9 of this 2007 Act are appropriated and transferred to and are available for expenditure by the Office of Emergency Management in the Oregon Military Department for the biennium beginning July 1, 2007, for the purpose of administering and enforcing the duties, functions and powers transferred by section 9 of this 2007 Act.

(2) The expenditure classifications, if any, established by Acts authorizing or limiting expenditures by the Office of Emergency Management in the Department of State Police remain applicable to expenditures by the Office of Emergency Management in the Oregon Military Department under this section.

SECTION 12. The transfer of duties, functions and powers to the Office of Emergency Management in the Oregon Military Department by section 9 of this 2007 Act does not affect any action, proceeding or prosecution involving or with respect to such duties, functions and powers begun before and pending at the time of the transfer, except that the Office of Emergency Management in the Oregon Military Department is substituted for the Office of Emergency Management in the Department of State Police in the action, proceeding or prosecution.

SECTION 13. (1) Nothing in sections 9 to 12 of this 2007 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 9 of this 2007 Act. The Office of Emergency Management in the Oregon Military Department may undertake the collection or enforcement of any such liability, duty or obligation.

(2) The rights and obligations of the Office of Emergency Management in the Department of State Police legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date of section 9 of this 2007 Act are transferred to the Office of Emergency Management in the Oregon Military Department. For the purpose of succession to these rights and obligations, the Office of Emergency Management in the Oregon Military Department is a continuation of the Office of Emergency Management in the Department of State Police and not a new authority.

SECTION 14. Notwithstanding the transfer of duties, functions and powers by section 9 of this 2007 Act, the rules of the Office of Emergency Management in the Department of State Police in effect on the operative date of section 9 of this 2007 Act continue in effect until superseded or repealed by rules of the Office of Emergency Management in the Oregon Military Department. References in rules of the Office of Emergency Management in the Department of State Police to the Office of Emergency Management in the Department of State Police or an officer or employee of the Office of Emergency Management in the Department of State Police are considered to be references to the Office of Emergency Management in the Oregon Military Department or an officer or employee of the Office of Emergency Management in the Oregon Military Department.

SECTION 15. Whenever, in any uncodified law or resolution of the Legislative Assembly or in any rule, document, record or proceeding authorized by the Legislative Assembly, reference is made to the Office of Emergency Management in the Department of State Police or an officer or employee of the Office of Emergency Management in the Department of State Police, the reference is considered to be a reference to the Office of Emergency Man-

agement in the Oregon Military Department or an officer or employee of the Office of Emergency Management in the Oregon Military Department.

SECTION 16. The Director of the Office of Emergency Management may be appointed before the operative date of section 9 of this 2007 Act and may take any action before that date that is necessary to enable the director to exercise, on and after the operative date of section 9 of this 2007 Act, the duties, functions and powers of the director pursuant to section 9 of this 2007 Act.

SECTION 17. Except as otherwise specifically provided in section 16 of this 2007 Act, sections 1 to 15, 18 and 19 of this 2007 Act, the amendments to statutes by sections 20 to 41 of this 2007 Act and the repeal of ORS 401.260 by section 42 of this 2007 Act become operative on July 1, 2007.

SECTION 18. Section 19 of this 2007 Act is added to and made a part of ORS 401.015 to 401.105.

SECTION 19. (1) As used in this section, “unit of government” means any department or agency of the federal government, any state or any agency, office or department of a state, any city, county, district, commission, authority, entity, port or other public corporation organized and existing under statutory law or under a voter-approved charter and any intergovernmental entity created under ORS 190.003 to 190.130, 190.410 to 190.440 or 190.480 to 190.490.

(2) Notwithstanding ORS 401.065, 401.085, 401.095 and 401.115, during a state of emergency declared under ORS 401.055, a unit of government may not seize a firearm from an individual who lawfully possesses the firearm.

(3) If a unit of government seizes a firearm from an individual during a state of emergency in violation of this section, the individual may recover from the unit of government that seized the firearm all costs incurred in the recovery of the firearm, including attorney fees, court costs and any other costs incurred in the recovery of the firearm.

SECTION 20. ORS 401.025, as amended by section 5, chapter 223, Oregon Laws 2007 (Enrolled Senate Bill 118), is amended to read:

401.025. As used in ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580, unless the context requires otherwise:

(1) “Abnormal disruption of the market” means any human created or natural event or circumstance that causes essential consumer goods or services to be not readily available.

(2) “Beneficiary” has the meaning given that term in ORS 656.005.

(3) “Commission” means the Seismic Safety Policy Advisory Commission established under ORS 401.337.

(4) “Emergency” *[includes any]* **means a human created or natural event or circumstance *[causing or threatening]* that causes or threatens widespread:**

(a) Loss of life[.];

(b) Injury to person or property[.];

(c) Human suffering; or

(d) Financial loss[*and includes a crisis influx of migrants unmanageable by a county*].

(5) “Emergency management agency” means an organization created and authorized under ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 by the state, county or city to provide for and *[assure]* **ensure** the conduct and coordination of functions for comprehensive emergency program management.

(6) “Emergency program management” includes all the tasks and activities necessary to provide, support and maintain the ability of the emergency services system to prevent or reduce the impact of emergency or disaster conditions which includes, but is not limited to, coordinating development of plans, procedures, policies, fiscal management, coordination with nongovernmental agencies and organizations, providing for a coordinated communications and alert and notification network and a public information system, personnel training and development and implementation of exercises to routinely test the emergency services system.

(7) “Emergency program manager” means the person administering the emergency management agency of a county or city.

(8) “Emergency service agency” means an organization within a local government which performs essential services for the public’s benefit prior to, during or following an emergency. This includes, but is not limited to, organizational units within local governments, such as law enforcement, fire control, health, medical and sanitation services, public works and engineering, public information and communications.

(9) “Emergency service worker” means an individual who, under the direction of an emergency service agency or emergency management agency, performs emergency services and:

(a) Is a registered volunteer or independently volunteers to serve without compensation and is accepted by the Office of Emergency Management or the emergency management agency of a county or city; or

(b) Is a member of the Oregon State Defense Force acting in support of the emergency services system.

(10) “Emergency services” includes those activities provided by state and local government agencies with emergency operational responsibilities to prepare for and carry out any activity to prevent, minimize, respond to or recover from an emergency. These activities include, without limitation, coordination, preparedness planning, training, interagency liaison, fire fighting, oil or hazardous material spill or release cleanup as defined in ORS 466.605, law enforcement, medical, health and sanitation services, engineering and public works, search and rescue activities, warning and public information, damage assessment, administration and fiscal management, and those measures defined as “civil defense” in 50 U.S.C. app. 2252.

(11) “Emergency services system” means that system composed of all agencies and organizations involved in the coordinated delivery of emergency services.

(12) “Essential consumer goods or services” means goods or services that:

(a) Are or may be bought or acquired primarily for personal, family or household purposes, including but not limited to residential construction materials or labor, shelter for payment such as a hotel room, food, water or petroleum products such as gasoline or diesel fuel; and

(b) Are necessary for the health, safety or welfare of consumers.

(13) “Human created or natural event or circumstance” includes, but is not limited to[,]:

(a) Fire, explosion, flood, severe weather, landslides or mud slides, drought, earthquake, volcanic activity, tsunamis or other oceanic phenomena, spills or releases of oil or hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, disease, blight, infestation, civil disturbance, riot, sabotage, acts of terrorism [or] **and war; and**

(b) A rapid influx of individuals from outside this state, a rapid migration of individuals from one part of this state to another or a rapid displacement of individuals if the influx, migration or displacement results from the type of event or circumstance described in paragraph (a) of this subsection.

(14) “Injury” means any personal injury sustained by an emergency service worker by accident, disease or infection arising out of and in the course of emergency services or death resulting proximately from the performance of emergency services.

(15) “Local government” means any governmental entity authorized by the laws of this state.

(16) “Major disaster” means any event defined as a “major disaster” under 42 U.S.C. 5122(2).

(17) “Oregon emergency management plan” means the state emergency preparedness operations and management plan. The Office of Emergency Management is responsible for coordinating emergency planning with government agencies and private organizations, preparing the plan for the Governor’s signature, and maintaining and updating the plan as necessary.

(18) “Search and rescue” means the acts of searching for, rescuing or recovering, by means of ground or marine activity, any person who is lost, injured or killed while out of doors. However, “search and rescue” does not include air activity in conflict with the activities carried out by the Oregon Department of Aviation.

(19) “Sheriff” means the chief law enforcement officer of a county.

SECTION 21. ORS 401.055 is amended to read:

401.055. (1) The Governor may declare a state of emergency by proclamation at the request of a county governing body or after determining that an emergency has occurred or is imminent.

(2) All requests by a county governing body that the Governor declare an emergency shall be sent to the Office of Emergency Management. Cities must submit requests through the governing body of the county in which the majority of the city's property is located. Requests from counties shall be in writing and include the following:

(a) A certification signed by the county governing body that all local resources have been expended; and

(b) A preliminary assessment of property damage or loss, injuries and deaths.

(3)(a) If, in the judgment of the [*Superintendent of State Police*] **Adjutant General**, the Governor cannot be reached by available communications facilities in time to respond appropriately to an emergency, the [*superintendent*] **Adjutant General** shall notify the Secretary of State or, if the Secretary of State is not available, the State Treasurer that the Governor is not available.

(b) After notice from the [*superintendent*] **Adjutant General** that the Governor is not available, the elected state official so notified may declare a state of emergency pursuant to the provisions of subsections (1) and (2) of this section.

(c) If the [*Superintendent of State Police*] **Adjutant General** is unavailable to carry out the duties described in this subsection, such duties shall be performed by the Director of the Office of Emergency Management.

(4) Any state of emergency declared by the Secretary of State or State Treasurer pursuant to this section has the same force and effect as if issued by the Governor, except that it must be affirmed by the Governor as soon as the Governor is reached. However, if the Governor does not set aside the proclamation within 24 hours of being reached, the proclamation shall be considered affirmed by the Governor.

(5) Any proclamation of a state of emergency must specify the geographical area covered by the proclamation. Such area shall be no larger than necessary to effectively respond to the emergency.

SECTION 22. ORS 401.270 is amended to read:

401.270. The Director of the Office of Emergency Management shall be responsible for coordinating and facilitating **exercises and training**, emergency planning, preparedness, response, **mitigation** and recovery activities with the state and local emergency services agencies and organizations, and shall, with the approval of the [*Superintendent of State Police*] **Adjutant General** or as directed by the Governor:

(1) Make rules that are necessary and proper for the administration and implementation of ORS 401.015 to 401.105, 401.260 to 401.325, 401.355 to 401.580 and 401.706;

(2) Coordinate the activities of all public and private organizations specifically related to providing emergency services within this state;

(3) Maintain a cooperative liaison with emergency management agencies and organizations of local governments, other states and the federal government;

(4) Have such additional authority, duties and responsibilities authorized by ORS 401.015 to 401.105, 401.260 to 401.325 and 401.355 to 401.580 or as may be directed by the Governor;

(5) Administer grants relating to emergency program management, seismic rehabilitation, emergency services for the state and the statewide 2-1-1 system as provided in ORS 401.294;

(6) Provide for and staff a State Emergency Operations Center to aid the Governor and the Office of Emergency Management in the performance of duties under ORS 401.015 to 401.105, 401.260 to 401.325, 401.355 to 401.580 and 401.706;

(7) Serve as the Governor's authorized representative for coordination of certain response activities and managing the recovery process;

(8) Establish training and professional standards for local emergency program management personnel;

(9) Establish task forces and advisory groups to assist the office in achieving mandated responsibilities;

(10) Enforce compliance requirements of federal and state agencies for receiving funds and conducting designated emergency functions;

(11) Oversee the design, implementation and support of a statewide 2-1-1 system as provided under ORS 401.288; and

(12) Coordinate the activities of state and local governments to enable state and local governments to work together during domestic incidents as provided in the National Incident Management System established by the Homeland Security Presidential Directive 5 of February 28, 2003.

SECTION 23. ORS 401.275 is amended to read:

401.275. (1)(a) The Department of State Police shall maintain a system for the notification and interagency coordination of state resources in response to [*natural and technological*] emergencies [*and civil disorder*] involving multijurisdictional cooperation between the various levels of government and private business entities.

(b) The department shall provide the Office of Emergency Management with a service level agreement that describes the continued daily operations and maintenance of the system, the services and supplies needed to maintain the system 24 hours a day, every day of the year and the policies and procedures that support the overall notification system.

(2) The notification system shall be managed by the Office of Emergency Management as a continuously available communications network and a component of the state's emergency operations center.

(3) The notification system shall be the primary point of contact by which any public agency provides the state notification of an emergency or disaster, or requests access to state and federal resources.

(4) Each department of state government, and those agencies of state government identified in the Oregon emergency management plan with emergency service or administrative responsibilities, shall appoint an emergency management coordinator as their representative to work with the office on the development and implementation of emergency plans and procedures.

(5) The [*Department of State Police*] **Office of Emergency Management** shall adopt rules relating to the planning, administration and operation of the notification system maintained under this section.

SECTION 24. ORS 401.280 is amended to read:

401.280. (1) The Office of Emergency Management is designated as the sole agency of the State of Oregon for the purpose of negotiating agreements with the [*Federal Emergency Management Agency*] **United States Department of Homeland Security** or other appropriate federal agency, on behalf of the state, for the acquisition of federal funds for the purpose of providing emergency program management and emergency services. All city or county emergency management programs, emergency service agencies and state agencies applying for such funds shall coordinate with the [*Office of Emergency Management*] **office** on development of proposals and shall submit applications to the [*agency*] **department** to be reviewed or processed, or both.

(2) The office is authorized to accept and receive on behalf of the state, counties and cities federal funds for purpose of emergency program management and emergency services, to deposit such funds in the Emergency Management Revolving Account and to authorize the disbursement and distribution of these funds in accordance with the applicable agreement.

SECTION 25. ORS 401.300 is amended to read:

401.300. (1) The Director of the Office of Emergency Management, pursuant to the authority to administer grant programs for seismic rehabilitation provided in ORS 401.270, shall develop a grant program for the disbursement of funds for the seismic rehabilitation of critical public buildings, including hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs' offices, other facilities used by state, county, district or municipal law enforcement agencies and buildings with a capacity of 250 or more persons that are routinely used for student activities by kindergarten through grade 12 public schools, community colleges, education service districts and institutions of higher education. The funds for the seismic rehabilitation of critical public buildings

under the grant program are to be provided from the issuance of bonds pursuant to the authority provided in Articles XI-M and XI-N of the Oregon Constitution.

(2) The grant program shall include the appointment of a grant committee. The grant committee may be composed of any number of persons with qualifications that the director determines necessary. However, the director shall include persons with experience in administering state grant programs and representatives of entities with responsibility over critical public buildings. The director shall also include as permanent members representatives of:

- (a) The Department of Human Services;
- (b) The State Department of Geology and Mineral Industries;
- (c) The Seismic Safety Policy Advisory Commission; [and]
- (d) The Oregon Department of Administrative Services;
- (e) The Department of Education;**
- (f) The Oregon Fire Chiefs' Association;**
- (g) The Oregon Association Chiefs of Police; and**
- (h) The Oregon Association of Hospitals and Health Systems.**

(3) The director shall determine the form and method of applying for grants from the grant program, the eligibility requirements for grant applicants, and general terms and conditions of the grants. The director shall also provide that the grant committee review grant applications and make a determination of funding based on a scoring system that is directly related to the statewide needs assessment performed by the State Department of Geology and Mineral Industries. Additionally, the grant process may:

(a) Require that the grant applicant provide matching funds for completion of any seismic rehabilitation project.

(b) Provide authority to the grant committee to waive requirements of the grant program based on special circumstances such as proximity to fault hazards, community value of the structure, emergency functions provided by the structure and storage of hazardous materials.

(c) Allow an applicant to appeal any determination of grant funding to the director for reevaluation.

(d) Provide that applicants release the state, the director and the grant committee from any claims of liability for providing funding for seismic rehabilitation.

(e) Provide separate rules for funding rehabilitation of structural and nonstructural building elements.

(4) Subject to the grant rules established by the director and subject to reevaluation by the director, the grant committee has the responsibility to review and make determinations on grant applications under the grant program established pursuant to this section.

SECTION 26. ORS 401.337 is amended to read:

401.337. (1) There is established a Seismic Safety Policy Advisory Commission consisting of the following members:

- (a) The chief officer or the chief officer's designee of the following:
 - (A) Department of Consumer and Business Services;
 - (B) State Department of Geology and Mineral Industries;
 - (C) Department of Land Conservation and Development;
 - (D) Department of Transportation; and
 - (E) Office of Emergency Management [*of the Department of State Police*]; and
- (b) Thirteen members appointed by the Governor as follows:
 - (A) One representative of local government;
 - (B) Six members representing the public interest, including:
 - (i) One representative of a school district, community college or university;
 - (ii) Two members of the Legislative Assembly; and
 - (iii) Three members of the general public; and
 - (C) Six members representing affected industries or stakeholders.

(2) The term of office of each member, except a member of the Legislative Assembly, appointed under subsection (1)(b) of this section is four years, but a member serves at the pleasure of the Governor. The term of office of a member of the Legislative Assembly expires at the end of the term for which the member is elected. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

SECTION 27. ORS 401.347 is amended to read:

401.347. The Office of Emergency Management shall provide technical, clerical and other necessary support services to the **Seismic Safety Policy Advisory** Commission. The Department of Consumer and Business Services, the Department of Human Services, the State Department of Geology and Mineral Industries, the Department of Land Conservation and Development, the Department of Transportation, the Water Resources Department and the Oregon University System shall provide assistance, as required, to the commission to enable it to meet its objectives.

SECTION 28. ORS 401.425 is amended to read:

401.425. (1) Claims for benefits under ORS 401.355 to 401.465 shall be filed by application with the Office of Emergency Management in the manner provided by rules of the [*Department of State Police*] **office**.

(2) The right to benefits under ORS 401.355 to 401.465 shall be barred unless written claim is filed with the office within 90 days after the injury, or, if death results therefrom, within 90 days after death. However, if death occurs more than one year after the injury, the right shall be barred unless prior written claim based on the injury has been timely filed. The requirements of this subsection may be waived by the office on the ground that, for good and sufficient reason, claim could not be filed on time.

SECTION 29. ORS 401.445 is amended to read:

401.445. If funds are not available to the Office of Emergency Management to pay claims approved under ORS 401.355 to 401.465, the [*Department of State Police*] **Oregon Military Department** shall request allocation of necessary funds from the Emergency Board if the unavailability occurs during the interim between sessions of the Legislative Assembly. If the unavailability occurs during a session, the [*Department of State Police*] **department** shall request the Joint Committee on Ways and Means to submit legislation necessary to provide such funds.

SECTION 30. ORS 401.535 is amended to read:

401.535. There is created in the General Fund in the State Treasury an account to be known as the Emergency Management Revolving Account. All contributions, grants-in-aid or other moneys received or collected by the Office of Emergency Management [*of the Department of State Police*], and any other funds contributed, granted or appropriated for transfer to the revolving account under authority of law shall be placed in the General Fund and credited to the Emergency Management Revolving Account. Moneys in the Emergency Management Revolving Account are continuously appropriated to the Office of Emergency Management for the purpose of this section. The office may use the revolving account to pay for the purchase of organizational and mobile support equipment and surplus property, for shelter construction, administration and personal services, when the purchase or expense is incurred pursuant to the office's agreements with the federal government, other state agencies or political subdivisions of the state.

SECTION 31. ORS 401.555 is amended to read:

401.555. The Office of Emergency Management [*of the Department of State Police*] shall establish and maintain a program for the air search and rescue of lost aircraft and persons and for the air support of other emergency situations. The program established under this section may include, but [*shall not be*] **is not** limited to, the following:

(1) The formation of a volunteer air search and rescue organization and provision of appropriate training to this organization.

(2) Directing, coordinating and performing air activities in conjunction with air search and rescue and other emergency situations.

(3) Entering into agreements with private persons, volunteer organizations, and federal, state and local agencies for air search and rescue and other emergency activities.

(4) Such other related activities as may be deemed necessary and appropriate by the Director of the Office of Emergency Management.

SECTION 32. ORS 401.710 is amended to read:

401.710. As used in ORS 305.823 and 401.710 to 401.816, unless the context requires otherwise:

(1) "Account" means the Emergency Communications Account.

(2) "Central office" means a utility that houses the switching and trunking equipment serving telephones in a defined area.

(3) "Department" means the Department of Revenue.

(4) "Emergency call" means a telephone request that results from a situation where prompt service is essential to preserve human life or property.

(5) "Enhanced 9-1-1 telephone service" means 9-1-1 telephone service consisting of a network, database and on-premises equipment that provides automatic display at the designated public safety answering point of the address and telephone number at the time of receiving an incoming 9-1-1 call.

(6) "Exchange access services" means:

(a) Telephone exchange access lines or channels that provide local access by a subscriber in this state to the local telecommunications network to effect the transfer of information; and

(b) Unless a separate tariff rate is charged therefor, any facility or service provided in connection with the services described in paragraph (a) of this subsection.

(7) "Governing body" means the board of county commissioners of a county, city council of a city, other governing body of a city or county, board of directors of a special district or a 9-1-1 jurisdiction.

(8) "Local government" has the meaning given that term in ORS 190.710.

[(9)] *"Office" means the Office of Emergency Management of the Department of State Police.*

[(10)] (9) "Provider" means a utility or other vendor or supplier of telecommunications service or equipment that provides telecommunications with access to the 9-1-1 emergency reporting system through local exchange service, cellular service or other wired or wireless means.

[(11)] (10) "Public or private safety agency" means any unit of state or local government, a special-purpose district or a private firm that provides or has authority to provide fire-fighting, police, ambulance or emergency medical services.

[(12)] (11) "Public safety answering point" means a 24-hour communications facility established as an answering location for 9-1-1 calls originating within a given service area. A "primary public safety answering point" receives all calls directly from the public. A "secondary public safety answering point" only receives calls from a primary public safety answering point on a transfer or relay basis.

[(13)] (12) "Subscriber" means a person who has telecommunication access to the 9-1-1 emergency reporting system through local exchange service, cellular service or other wired or wireless means.

[(14)] (13) "TTY" means a telephone-typewriter used by a hearing or speech impaired person to communicate with another device or individual.

[(15)] (14) "Utility" means a utility as defined in ORS 759.005, a telecommunications carrier as defined in ORS 133.721 or a municipality or any provider of exchange access services.

[(16)] (15) "Vendor" means any corporation, company, individual or association, providing telephone customer premises equipment or equipment specific to the operation of enhanced 9-1-1 telephone service.

[(17)] (16) "9-1-1 emergency reporting system" means a telephone service that provides the users of a public telephone system the ability to reach a primary public safety answering point by calling 9-1-1.

[(18)] (17) "9-1-1 jurisdiction" means an entity created under ORS chapter 190, a county service district established under ORS chapter 451 to provide an emergency communications system, an emergency communications district created under ORS 401.818 to 401.857 or a group of public or

private safety agencies who have agreed in writing to jointly plan the installation, maintenance, operation or improvement of a 9-1-1 emergency reporting system.

[(19)] (18) "9-1-1 service area" means the geographical area that contains the entire central office serving area from which the primary public safety answering point will have the capability to answer calls placed to 9-1-1.

SECTION 33. ORS 401.785 is amended to read:

401.785. (1) All disputes between a governing body, 9-1-1 jurisdiction and public or private safety agency regarding a 9-1-1 system, not otherwise resolved in accordance with a written agreement shall be mediated. When a governing body or 9-1-1 jurisdiction obtains knowledge that a dispute exists and cannot be resolved by the agencies, it shall notify the Office of Emergency Management of the dispute in writing. Within 30 days of this notification, the disputing agencies shall mutually select a mediator and notify the office in writing of this selection. If a mediator is not mutually selected by the agencies within this period, the Director of the Office **of Emergency Management** shall select a mediator from the list of mediators established under subsection (3) of this section. Once selected, the mediator shall establish a schedule for the mediation process. The disputing agencies shall have 60 days from the date the mediator is agreed upon or selected to mediate the dispute unless the agencies mutually agree in writing to an extension of this deadline. A copy of all extensions shall be submitted to the office.

(2) When the mediation process in subsection (1) of this section ends, the mediator shall notify the office in writing of the outcome of the mediation. If the agencies are not able to resolve their dispute through mediation, the 9-1-1 jurisdiction or governing body and public or private safety agency or agencies shall submit the dispute to arbitration. The agencies shall have 30 days from the end of the mediation to select an arbitrator. If the disputing agencies are unable to mutually select an arbitrator within this period, the director [of the office] shall request the presiding judge for the judicial district in which the 9-1-1 system is located to select an arbitrator. The arbitrator shall have 30 days from selection to hear and decide the dispute unless the agencies mutually agree in writing to an extension of this deadline. A party to an arbitration under this subsection may seek confirmation, vacation, modification or correction of the arbitrator's decision as provided in ORS 36.700, 36.705 and 36.710. A court may vacate a decision only if there is a basis to vacate the decision as described in ORS 36.705 (1)(a) to (d). The court may modify or correct a decision only for the grounds given in ORS 36.710.

(3) The office shall establish a roster of mediators qualified to mediate disputes under subsection (1) of this section. This list may be used by the disputing agencies when selecting a mediator.

(4) Unless otherwise agreed upon, the costs of the mediation or arbitration, including the mediator's or arbitrator's fees, shall be divided equally among the disputing agencies.

SECTION 34. ORS 401.871 is amended to read:

401.871. (1) The State Interoperability Executive Council is created within the [*Office of Emergency Management*] **Department of State Police**. The membership of the council shall consist of:

(a) Two members from the Legislative Assembly, as follows:

(A) The President of the Senate shall appoint one member from the Senate with an interest in public safety communications infrastructure; and

(B) The Speaker of the House of Representatives shall appoint one member from the House of Representatives with an interest in public safety and wireless communications infrastructure.

(b) The following members appointed by the Governor:

(A) One member from the Department of State Police;

(B) One member from the Office of Emergency Management;

(C) One member from the State Forestry Department;

(D) One member from the Department of Corrections;

(E) One member from the Department of Transportation;

(F) One member from the Oregon Department of Administrative Services;

(G) One member from the Department of Human Services;

(H) One member from the Oregon Military Department;

- (I) One member from the Department of Public Safety Standards and Training;
- (J) One member of an Indian tribe as defined in ORS 97.740;
- (K) One member from a nonprofit professional organization devoted to the enhancement of public safety communications systems; and
- (L) One member from the public.

(c) The following members appointed by the Governor with the concurrence of the President of the Senate and the Speaker of the House of Representatives:

- (A) One member from the Oregon Fire Chiefs' Association;
- (B) One member from the Oregon Association Chiefs of Police;
- (C) One member from the Oregon State Sheriffs' Association;
- (D) One member from the Association of Oregon Counties;
- (E) One member from the League of Oregon Cities; and
- (F) One member from the Special Districts Association of Oregon.

(2) Each agency or organization identified in subsection (1)(b)(A) to (I) and (1)(c) of this section shall recommend a person from the agency or organization for membership on the council.

(3) Members of the council are not entitled to compensation, but in the discretion of the [*Director of the Office of Emergency Management*] **Superintendent of State Police** may be reimbursed from funds available to the [*Office of Emergency Management*] **Department of State Police** for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.

(4) Members of the Legislative Assembly appointed to the council are nonvoting members and may act in an advisory capacity only.

SECTION 35. ORS 401.872 is amended to read:

401.872. The State Interoperability Executive Council created under ORS 401.871 shall:

(1) Work with public safety agencies in the state to develop a Public Safety Wireless Infrastructure Replacement Plan as provided under section 2, chapter 825, Oregon Laws 2005.

(2) Develop an Oregon Interoperable Communication Plan. The goal of the plan shall be to achieve statewide interoperability within six years of September 2, 2005. In developing the plan, the council shall:

(a) Recommend strategies to improve wireless interoperability among state and local public safety agencies;

(b) Develop standards to promote consistent development of existing and future wireless communications infrastructures;

(c) Identify immediate short-term technological and policy solutions to tie existing wireless communications infrastructures together into an interoperable communications system;

(d) Develop long-term technological and policy recommendations to establish a statewide public safety radio system to improve emergency response and day-to-day public safety operations; and

(e) Develop recommendations for legislation and for the development of state and local policies to promote wireless interoperability in Oregon.

(3) Approve, subject to approval by the [*Director of the Office of Emergency Management*] **Superintendent of State Police**, investments by the State of Oregon in public safety communications systems.

(4) Coordinate state and local activities related to obtaining federal grants for support of interoperability.

(5) Develop and provide technical assistance, training and, if requested, appropriate dispute resolution services to state and local agencies responsible for implementation of the Oregon Interoperable Communication Plan.

(6) Report, in the manner required by ORS 192.245, to the Legislative Assembly on or before February 1 of each odd-numbered year on the development of the Oregon Interoperable Communication Plan and the council's other activities.

(7) Adopt rules necessary to carry out its duties and powers.

SECTION 36. ORS 401.874 is amended to read:

401.874. (1) The [*Director of the Office of Emergency Management*] **Superintendent of State Police** shall advise the State Interoperability Executive Council on the implementation of the Oregon Interoperable Communication Plan and coordinate interoperability among all state agencies.

(2) State agencies that own or operate public safety communications systems shall coordinate their efforts and investments to achieve the statewide interoperability goal set by the council and implement the Oregon Interoperable Communication Plan approved by the [*director*] **superintendent**.

SECTION 37. ORS 195.260 is amended to read:

195.260. (1) In order to reduce the risk of serious bodily injury or death resulting from rapidly moving landslides, a local government:

(a) Shall exercise all available authority to protect the public during emergencies, consistent with ORS 401.015.

(b) May require a geotechnical report and, if a report is required, shall provide for a coordinated review of the geotechnical report by the State Department of Geology and Mineral Industries or the State Forestry Department, as appropriate, before issuing a building permit for a site in a further review area.

(c) Except those structures exempt from building codes under ORS 455.310 and 455.315, shall amend its land use regulations, or adopt new land use regulations, to regulate the siting of dwellings and other structures designed for human occupancy, including those being restored under ORS 215.130 (6), in further review areas where there is evidence of substantial risk for rapidly moving landslides. All final decisions under this paragraph and paragraph (b) of this subsection are the responsibility of the local government with jurisdiction over the site. A local government may not delegate such final decisions to any state agency.

(d) May deny a request to issue a building permit if a geotechnical report discloses that the entire parcel is subject to a rapidly moving landslide or that the subject lot or parcel does not contain sufficient buildable area that is not subject to a rapidly moving landslide.

(e) Shall maintain a record, available to the public, of properties for which a geotechnical report has been prepared within the jurisdiction of the local government.

(2) A landowner allowed a building permit under subsection (1)(c) of this section shall sign a statement that shall:

(a) Be recorded with the county clerk of the county in which the property is located, in which the landowner acknowledges that the landowner may not in the future bring any action against an adjacent landowner about the effects of rapidly moving landslides on or adjacent to the landowner's property; and

(b) Record in the deed records for the county where the lot or parcel is located a nonrevocable deed restriction that the landowner signs and acknowledges, that contains a legal description complying with ORS 93.600 and that prohibits any present or future owner of the property from bringing any action against an adjacent landowner about the effects of rapidly moving landslides on or adjacent to the property.

(3) Restrictions on forest practices adopted under ORS 527.710 (10) do not apply to risk situations arising solely from the construction of a building designed for human occupancy in a further review area on or after October 23, 1999.

(4) The following state agencies shall implement the following specific responsibilities to reduce the risk of serious bodily injury or death resulting from rapidly moving landslides:

(a) The State Department of Geology and Mineral Industries shall:

(A) Identify and map further review areas selected in cooperation with local governments and in coordination with the State Forestry Department, and provide technical assistance to local governments to facilitate the use and application of this information pursuant to subsection (1)(b) of this section; and

(B) Provide public education regarding landslide hazards.

(b) The State Forestry Department shall regulate forest operations to reduce the risk of serious bodily injury or death from rapidly moving landslides directly related to forest operations, and assist

local governments in the siting review of permanent dwellings on and adjacent to forestlands in further review areas pursuant to subsection (1)(b) of this section.

(c) The Land Conservation and Development Commission may take steps under its existing authority to assist local governments to appropriately apply the requirements of subsection (1)(c) of this section.

(d) The Department of Transportation shall provide warnings to motorists during periods determined to be of highest risk of rapidly moving landslides along areas on state highways with a history of being most vulnerable to rapidly moving landslides.

(e) The Office of Emergency Management [*of the Department of State Police*] shall coordinate state resources for rapid and effective response to landslide-related emergencies.

(5) Notwithstanding any other provision of law, any state or local agency adopting rules related to the risk of serious bodily injury or death from rapidly moving landslides shall do so only in conformance with the policies and provisions of ORS 195.250 to 195.260.

(6) No state or local agency may adopt or enact any rule or ordinance for the purpose of reducing risk of serious bodily injury or death from rapidly moving landslides that limits the use of land that is in addition to land identified as a further review area by the State Department of Geology and Mineral Industries or the State Forestry Department pursuant to subsection (4) of this section.

(7) Except as provided in ORS 527.710 or in Oregon's ocean and coastal land use planning goals, no state agency may adopt criteria regulating activities for the purpose of reducing risk of serious bodily injury or death from rapidly moving landslides on lands subject to the provisions of ORS 195.250 to 195.260 that are more restrictive than the criteria adopted by a local government pursuant to subsection (1)(c) of this section.

SECTION 38. ORS 453.342 is amended to read:

453.342. Any fire department, emergency service personnel or law enforcement agency responding to an incident of injury to a human, wildlife, domestic animal or property resulting from a hazardous substance emergency shall make a report of the incident, in writing, to the office of the State Fire Marshal. The State Fire Marshal annually shall summarize all incidents reported to the State Fire Marshal and the information received as a result of the survey conducted under ORS 453.317. The State Fire Marshal shall submit a copy of the summary to:

- (1) The Governor;
- (2) The Legislative Assembly;
- (3) The Department of Environmental Quality;
- (4) The Department of Consumer and Business Services;
- (5) The Department of Transportation;
- (6) The Department of Human Services;
- (7) The Environmental Health Sciences Center at Oregon State University;
- (8) The Office of Emergency Management [*of the Department of State Police*]; and
- (9) Every public library as defined in ORS 357.400.

SECTION 39. ORS 466.635 is amended to read:

466.635. Any person owning or having control over any oil or hazardous material who has knowledge of a spill or release shall immediately notify the Office of Emergency Management [*of the Department of State Police*] as soon as that person knows the spill or release is a reportable quantity.

SECTION 40. ORS 824.088 is amended to read:

824.088. (1) Each railroad that gives notice to the United States Department of Transportation of an incident that occurs during the course of transporting hazardous materials as defined by federal regulations shall also give notice of the incident to the Director of the Office of Emergency Management [*of the Department of State Police*].

(2) As soon as reasonably practicable, each railroad shall notify the director [*of the Office of Emergency Management of the Department of State Police*] by telephone or similar means of communication of any derailment or fire involving or affecting hazardous material.

(3) To facilitate expedited and accurate notice to the director under this section, each train transporting hazardous materials in this state shall be equipped with at least two radio transmitter-receivers in good working order. In addition, 18 months after October 4, 1977, trains over 2,000 feet in length that are transporting hazardous materials shall be equipped with a radio handset in good working order capable of communicating with the radio transmitter-receivers. If the equipment required under this section does not function while the train is en route, the train may proceed to the next point of crew change where the equipment shall be replaced or repaired.

SECTION 41. ORS 837.035 is amended to read:

837.035. All moneys received by the Oregon Department of Aviation for the registration of pilot licenses as prescribed in ORS 837.020 shall be paid by the department to the State Treasurer, who shall deposit it in the General Fund to a special account to be known as the Aviation Search and Rescue Account. The money in the account established under this section shall be used by the Office of Emergency Management [*of the Department of State Police*] only for the following purposes or as otherwise provided by law:

(1) Such amount as may be necessary shall be used for the payment of all expenses incurred by the Office of Emergency Management in conducting activities authorized under ORS 401.555 to search for lost planes and lost persons, the rescue of lost persons, pilot survival education and training and all other expenses directly attributable to the search and rescue program and for the payment of expenses of the Oregon Department of Aviation relating to the registration of pilot licenses. The Oregon Department of Administrative Services, after approval of claims for the expenses referred to in this subsection, shall draw warrants on the State Treasurer for the payment thereof, payable out of the Aviation Search and Rescue Account.

(2) The Office of Emergency Management may use [*money*] **moneys** from the Aviation Search and Rescue Account to provide insurance to compensate any member of a volunteer air search and rescue organization for injuries or loss of life sustained in the scope of performing air search and rescue operations while under the direction of the office [*of Emergency Management*]. The insurance may be obtained from a public or private insurer. The scope, coverage and benefits provided under the insurance shall not exceed those provided for persons under ORS chapter 656. If the insurance is provided, the coverage provided by the insurance:

(a) Shall include all volunteer members accepted by the Office of Emergency Management.

(b) Regardless of negligence, is the exclusive remedy of a member of the Office of Emergency Management air search and rescue organization against the State of Oregon, the [*Office of Emergency Management*] **office** or any other person acting under the authority or direction of the [*Office of Emergency Management*] **office** for those injuries or losses resulting from the air search and rescue activities.

SECTION 42. ORS 401.260 is repealed.

SECTION 43. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by House June 20, 2007

Repassed by House June 25, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate June 24, 2007

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President of Senate

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State