

(Including Amendments to Resolve Conflicts)

# B-Engrossed House Bill 3021

Ordered by the Senate June 8  
Including House Amendments dated April 24 and Senate Amendments  
dated June 8

Sponsored by COMMITTEE ON VETERANS AND EMERGENCY SERVICES (at the request of Oregon Law Commission)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Provides that qualified emergency service volunteer is agent of public body under Oregon Tort Claims Act for purpose of acts and omissions of volunteer that are within course and scope of volunteer's duties if acts or omissions occur during state of emergency or state of public health emergency and while volunteer is performing emergency services under direction of public body or is engaged in training approved by public body. Requires Office of Emergency Management to provide workers' compensation coverage for qualified emergency service volunteers who are injured in course and scope of performing emergency service activities under direction of public body or while engaged in training approved by public body.

Provides that certain volunteer emergency health care providers, health care facilities and operators of emergency health care centers are agents of state under Oregon Tort Claims Act for purpose of acts and omissions of providers, facilities and operators during state of emergency or state of public health emergency, without regard to whether providers, facilities or operators are compensated for services.

Provides that qualified search and rescue volunteer is agent of county under Oregon Tort Claims Act for purpose of acts and omissions of volunteer that occur while volunteer is performing search and rescue activities under direction of sheriff or sheriff's designee. [*Requires county to provide workers' compensation coverage for qualified search and rescue volunteers who are injured in course and scope of performing search and rescue activities under direction of sheriff or sheriff's designee.*] **Provides that county is conclusively deemed to have filed election for provision of workers' compensation coverage for qualified search and rescue volunteer who performs search and rescue activities under direction of sheriff or sheriff's designee.**

Provides that for purposes of limitation of Oregon Tort Claims Act on recovery for single accident or occurrence, events giving rise to proclamation of state of emergency or state of public health emergency do not constitute single accident or occurrence.

Revises other laws relating to emergencies.

## A BILL FOR AN ACT

Relating to emergencies; creating new provisions; amending ORS 18.348, 176.800, 190.156, 254.471, 401.015, 401.025, 401.035, 401.039, 401.065, 401.074, 401.085, 401.155, 401.257, 401.270, 401.272, 401.274, 401.275, 401.309, 401.315, 401.490, 401.550, 401.560, 401.570, 401.580, 401.590, 401.641, 401.657, 401.661, 401.667, 401.990, 453.322, 469.533, 469.535, 469.611, 480.347, 656.031 and 801.208 and section 2, chapter 67, Oregon Laws 2009 (Enrolled Senate Bill 311); and repealing ORS 401.355, 401.365, 401.375, 401.385, 401.395, 401.405, 401.415, 401.425, 401.435, 401.445, 401.455, 401.465 and 401.515.

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

## QUALIFIED EMERGENCY SERVICE VOLUNTEERS

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1       **SECTION 1.** Sections 2 to 5 of this 2009 Act are added to and made a part of ORS 401.015  
2 to 401.039.

3       **SECTION 2. Definitions.** As used in sections 2 to 5 of this 2009 Act:

4       (1) “Emergency service activities” means:

5       (a) The provision of emergency services; and

6       (b) Engaging in training under the direction of a public body, whether by reason of the  
7 training being conducted or approved by a public body, for the purpose of preparing qualified  
8 emergency service volunteers to perform emergency services.

9       (2) “Qualified emergency service volunteer” means a person who is:

10       (a) Registered with the Office of Emergency Management or other public body to perform  
11 emergency service activities;

12       (b) Acknowledged in writing as a qualified emergency service volunteer, at the time the  
13 person offers to volunteer during an emergency, by the Office of Emergency Management  
14 or by another public body; or

15       (c) A member of the Oregon State Defense Force.

16       **SECTION 3. Application.** Sections 2 to 5 of this 2009 Act apply only to a qualified emer-  
17 gency service volunteer who is performing emergency service activities under the direction  
18 of a public body without compensation from the public body other than reimbursement for  
19 food, lodging, costs of transportation and other expenses.

20       **SECTION 4. Coverage under Oregon Tort Claims Act.** (1) A qualified emergency service  
21 volunteer is an agent of a public body under ORS 30.260 to 30.300 for the purpose of acts and  
22 omissions of the volunteer that are within the course and scope of the volunteer’s duties if  
23 the acts or omissions occur:

24       (a) While the volunteer is performing emergency service activities under the direction  
25 of the public body during a state of emergency declared under ORS 401.015 to 401.039, or  
26 during a state of public health emergency proclaimed under ORS 433.441; or

27       (b) While the volunteer is engaged in training being conducted or approved by a public  
28 body for the purpose of preparing the volunteer to perform emergency services.

29       (2) A public body shall defend, save harmless and indemnify a qualified emergency service  
30 volunteer as required by ORS 30.285 for any tort claim arising out of an act or omission de-  
31 scribed in subsection (1) of this section.

32       **SECTION 5. Workers’ compensation benefits.** (1) The Office of Emergency Management  
33 shall provide workers’ compensation coverage for qualified emergency service volunteers  
34 who are injured in the course and scope of performing emergency service activities under  
35 the direction of a public body if the injury occurs:

36       (a) While the volunteer is performing emergency service activities under the direction  
37 of the public body during a state of emergency declared under ORS 401.015 to 401.039, or  
38 during a state of public health emergency proclaimed under ORS 433.441; or

39       (b) While the volunteer is engaged in training being conducted or approved by a public  
40 body for the purpose of preparing the volunteer to perform emergency services.

41       (2) Workers’ compensation coverage shall be provided under this section in the manner  
42 provided by ORS 656.039.

43       **SECTION 6.** ORS 401.355, 401.365, 401.375, 401.385, 401.395, 401.405, 401.415, 401.425, 401.435,  
44 401.445, 401.455, 401.465 and 401.515 are repealed.

45

**EMERGENCY HEALTH CARE SERVICES**

**SECTION 7.** ORS 401.657 is amended to read:

401.657. (1) The Department of Human Services may designate all or part of a health care facility or other location as an emergency health care center. *[Upon]* **If** the Governor *[declaring]* **declares** a state of emergency under ORS 401.055, or *[proclaiming]* **proclaims** a state of public health emergency *[after determining that a threat to the public health is imminent and likely to be widespread, life-threatening and of a scope that requires immediate medical action to protect the public health]* **under ORS 433.441**, emergency health care centers may be used for:

- (a) Evaluation and referral of individuals affected by the emergency;
- (b) Provision of health care services; and
- (c) Preparation of patients for transportation.

(2) The department may enter into cooperative agreements with local public health authorities that allow local public health authorities to designate emergency health care centers under this section.

(3) An emergency health care center designated under this section must have an emergency operations plan and a credentialing plan that governs the use of emergency health care providers registered under ORS 401.654 and other health care providers who volunteer to perform health care services at the center under ORS 401.651 to 401.670. The emergency operations plan and credentialing plan must comply with rules governing those plans adopted by the department.

**SECTION 8.** ORS 401.661 is amended to read:

401.661. *[Upon]* **If** the Governor *[declaring]* **declares** a state of emergency under ORS 401.055, or *[proclaiming]* **proclaims** a state of public health emergency *[after determining that a threat to the public health is imminent and likely to be widespread, life-threatening and of a scope that requires immediate medical action to protect the public health]* **under ORS 433.441**:

(1) The Department of Human Services may direct emergency health care providers registered under ORS 401.654 who are willing to provide health care services *[on a voluntary basis]* to proceed to any place in this state where health care services are required by reason of the emergency or crisis; and

(2) Any emergency health care provider registered under ORS 401.654 or other health care provider may volunteer to perform health care services described in ORS 401.657 at any emergency health care center or health care facility in the manner provided by ORS 401.664.

**SECTION 9.** ORS 401.667 is amended to read:

401.667. (1) **If the Governor declares a state of emergency under ORS 401.055, or proclaims a state of public health emergency under ORS 433.441**, emergency health care providers registered under ORS 401.654 and other health care providers who volunteer to perform health care services *[without compensation]* under ORS 401.651 to 401.670 are agents of the state under ORS 30.260 to 30.300 for the purposes of any claims arising out of *[those]* services **that are provided under ORS 401.651 to 401.670 pursuant to directions from a public body and that are within the course and scope of the health care provider's duties, without regard to whether the health care provider is compensated for the services.**

(2) **If the Governor declares a state of emergency under ORS 401.055, or proclaims a state of public health emergency under ORS 433.441**, health care facilities **designated under ORS 401.657** and other persons operating emergency health care centers designated under ORS 401.657 are agents of the state under ORS 30.260 to 30.300 for the purposes of any claims arising out of

1 services **that are** provided [*without compensation*] through those centers or facilities under ORS  
2 401.651 to 401.670 **pursuant to directions from a public body and that are within the course**  
3 **and scope of the duties of the health care facility or other person, without regard to whether**  
4 **the health care facility or other person is compensated for the services.**

5 (3) An emergency health care provider registered under ORS 401.654 participating in training  
6 authorized by the Department of Human Services under ORS 401.651 to 401.670 is an agent of the  
7 state under ORS 30.260 to 30.300 for the purposes of any claims arising out of that training.

8 (4) The provisions of [*subsections (1) and*] **subsection (2)** of this section apply only to emergency  
9 health care centers or health care facilities that have adopted emergency operations plans and  
10 credentialing plans that govern the use of emergency health care providers registered under ORS  
11 401.654 and other health care providers who volunteer to perform health care services under ORS  
12 401.651 to 401.670. An emergency operations plan and a credentialing plan must comply with rules  
13 governing those plans adopted by the Department of Human Services.

## 14 15 SEARCH AND RESCUE

16  
17 **SECTION 10. Sections 11 to 14 of this 2009 Act are added to and made a part of ORS**  
18 **401.550 to 401.590.**

19 **SECTION 11. Definitions. As used in sections 11 to 14 of this 2009 Act:**

20 (1) **“Qualified search and rescue volunteer” means a person who is:**

21 (a) **Registered with the Office of Emergency Management to conduct search and rescue**  
22 **activities;**

23 (b) **Registered with a sheriff to conduct search and rescue activities;**

24 (c) **A member of a designated search and rescue organization that is registered with a**  
25 **sheriff or the Office of Emergency Management; or**

26 (d) **Acknowledged in writing as a qualified search and rescue volunteer by the Office of**  
27 **Emergency Management, or by a sheriff, at the scene of a search or rescue.**

28 (2) **“Search and rescue activities” means:**

29 (a) **Searching for, rescuing or recovering any person who is missing, injured or deceased;**  
30 **and**

31 (b) **Training to perform the activities described in paragraph (a) of this subsection that**  
32 **is either conducted or approved by a public body.**

33 **SECTION 12. Application. Sections 11 to 14 of this 2009 Act apply only to a qualified**  
34 **search and rescue volunteer who is performing search and rescue activities without com-**  
35 **ensation other than reimbursement for food, lodging, costs of transportation and other ex-**  
36 **penses.**

37 **SECTION 13. Coverage under Oregon Tort Claims Act. A qualified search and rescue**  
38 **volunteer is an agent of a county under ORS 30.260 to 30.300 for the purpose of acts and**  
39 **omissions of the volunteer that are within the course and scope of the volunteer’s duties and**  
40 **that occur while the volunteer is performing search and rescue activities under the direction**  
41 **of the sheriff of the county or the designee of the sheriff, and the county shall defend, save**  
42 **harmless and indemnify the volunteer for any tort claim arising out of an alleged act or**  
43 **omission occurring in the performance of those activities as required by ORS 30.285.**

44 **SECTION 14. Workers’ compensation coverage. (1) Any county in which a qualified**  
45 **search and rescue volunteer performs search and rescue activities under the direction of the**

1 **sheriff of the county or the designee of the sheriff is conclusively deemed to have filed an**  
2 **election under ORS 656.031 to provide workers' compensation coverage for the qualified**  
3 **search and rescue volunteer.**

4 **(2) An insurer or self-insured employer may fix assumed wage rates for qualified search**  
5 **and rescue volunteers, which may be used only for purposes of computations under ORS**  
6 **chapter 656, and shall require the regular payment of premiums or assessments based on the**  
7 **hours of service by qualified search and rescue volunteers. A self-insured employer shall**  
8 **submit the assumed wage rates to the Director of the Department of Consumer and Business**  
9 **Services. If the director finds that the rates are unreasonable, the director may fix appro-**  
10 **priate rates to be used for purposes of this section.**

11 **(3) A county that is a self-insured employer under ORS chapter 656 may apply to an**  
12 **insurer for workers' compensation coverage for qualified search and rescue volunteers only,**  
13 **while continuing to self-insure the other subject workers of the county. If an insurer decides**  
14 **not to provide workers' compensation coverage for qualified search and rescue volunteers**  
15 **of the county, coverage shall be provided through the assigned risk pool.**

16 **(4) Qualified search and rescue volunteers and their beneficiaries are not eligible for**  
17 **workers' compensation benefits under this section if the volunteer is performing search and**  
18 **rescue activities during an emergency and is provided with workers' compensation coverage**  
19 **under section 5 of this 2009 Act.**

20 **SECTION 14a.** ORS 656.031 is amended to read:

21 656.031. (1) **Except as provided in section 14 of this 2009 Act,** all municipal personnel, other  
22 than those employed full-time, part-time, or substitutes therefor, shall, for the purpose of this chap-  
23 ter, be known as volunteer personnel and shall not be considered as workers unless the municipality  
24 has filed the election provided by this section.

25 (2) The county, city or other municipality utilizing volunteer personnel as specified in subsection  
26 (1) of this section may elect to have such personnel considered as subject workers for purposes of  
27 this chapter. Such election shall be made by filing a written application to the insurer, or in the case  
28 of a self-insured employer, the Director of the Department of Consumer and Business Services, that  
29 includes a resolution of the governing body declaring its intent to cover volunteer personnel as  
30 provided in subsection (1) of this section and a description of the work to be performed by such  
31 personnel. The application shall also state the estimated total number of volunteer personnel on a  
32 roster for each separate category for which coverage is elected. The county, city or other munic-  
33 ipality shall notify the insurer, or in the case of self-insurers, the director, of changes in the esti-  
34 mated total number of volunteers.

35 (3) Upon receiving the written application the insurer or self-insured employer may fix assumed  
36 wage rates for the volunteer personnel, which may be used only for purposes of computations under  
37 this chapter, and shall require the regular payment of premiums or assessments based upon the es-  
38 timated total numbers of such volunteers carried on the roster for each category being covered. The  
39 self-insured employer shall submit such assumed wage rates to the director. If the director finds that  
40 the rates are unreasonable, the director may fix appropriate rates to be used for purposes of this  
41 section.

42 (4) The county, city or municipality shall maintain separate official membership rosters for each  
43 category of volunteers. A certified copy of the official membership roster shall be furnished the  
44 insurer or director upon request. Persons covered under this section are entitled to the benefits of  
45 this chapter and they are entitled to such benefits if injured as provided in ORS 656.202 while per-

1 forming any duties arising out of and in the course of their employment as volunteer personnel, if  
2 the duties being performed are among those:

3 (a) Described on the application of the county, city or municipality; and

4 (b) Required of similar full-time paid employees.

5 (5) The filing of claims for benefits under this section is the exclusive remedy of a volunteer or  
6 a beneficiary of the volunteer for injuries compensable under this chapter against the state, its  
7 political subdivisions, their officers, employees, or any employer, regardless of negligence.

8  
9 **OREGON TORT CLAIMS ACT**

10  
11 **SECTION 15.** Section 2, chapter 67, Oregon Laws 2009 (Enrolled Senate Bill 311), is amended  
12 to read:

13 **Sec. 2.** (1) Punitive damages may not be awarded on any claim subject to ORS 30.260 to 30.300.

14 (2) Claims subject to ORS 30.260 to 30.300 are not subject to the limitation imposed by ORS  
15 31.710.

16 (3) A court may not apply the limitations imposed on recovery under sections 3, 4 and 5,  
17 **chapter 67, Oregon Laws 2009 (Enrolled Senate Bill 311)**, [of this 2009 Act] until after the entry  
18 of a verdict or a stipulation by the parties to the amount of the damages.

19 (4) The limitations imposed under sections 3 (2) and 4 (2), **chapter 67, Oregon Laws 2009**  
20 **(Enrolled Senate Bill 311)**, [of this 2009 Act] on single claimants include damages claimed for loss  
21 of services or loss of support arising out of the same tort.

22 (5) If two or more claimants recover on a claim that arises out of a single accident or occur-  
23 rence, and the recovery is subject to a limitation imposed by section 3 (3), 4 (3) or 5 (2)(b), **chapter**  
24 **67, Oregon Laws 2009 (Enrolled Senate Bill 311)** [of this 2009 Act], any party to the action in  
25 which the claim is made may apply to the court to apportion to each claimant the proper share of  
26 the amount allowed by section 3 (3), 4 (3) or 5 (2)(b), **chapter 67, Oregon Laws 2009 (Enrolled**  
27 **Senate Bill 311)** [of this 2009 Act]. The share apportioned to each claimant shall be in the propor-  
28 tion that the ratio of the award or settlement made to the claimant bears to the aggregate awards  
29 and settlements for all claims arising out of the accident or occurrence.

30 (6) Liability of any public body and one or more of its officers, employees or agents, or two or  
31 more officers, employees or agents of a public body, on claims arising out of a single accident or  
32 occurrence, may not exceed in the aggregate the amounts allowed by sections 3, 4 and 5, **chapter**  
33 **67, Oregon Laws 2009 (Enrolled Senate Bill 311)** [of this 2009 Act].

34 (7) Sections 3, 4 and 5, **chapter 67, Oregon Laws 2009 (Enrolled Senate Bill 311)**, [of this 2009  
35 Act] do not apply to a claim arising in connection with a nuclear incident covered by an insurance  
36 or indemnity agreement under 42 U.S.C. 2210.

37 (8) **For the purposes of the limitations imposed by sections 3, 4 and 5, chapter 67, Oregon**  
38 **Laws 2009 (Enrolled Senate Bill 311), events giving rise to a proclamation of a state of**  
39 **emergency under ORS 401.055, or a proclamation of a public health emergency under ORS**  
40 **433.441, do not constitute a single accident or occurrence.**

41  
42 **SERIES ADJUSTMENTS**

43  
44 **SECTION 16.** (1) **ORS 401.039, 401.055, 401.095, 401.105, 401.115, 401.125, 401.135, 401.145 and**  
45 **401.155 are added to and made a part of ORS 401.065 to 401.085.**

1 (2) ORS 401.065 to 401.085, 401.106, 401.107, 401.108, 401.257, 401.259, 401.261, 401.263,  
2 401.265, 401.267, 401.269, 401.270, 401.271, 401.272, 401.274, 401.275, 401.280, 401.300, 401.305,  
3 401.309, 401.315, 401.325, 401.335, 401.337, 401.343, 401.345, 401.347, 401.353, 401.485, 401.505,  
4 401.525, 401.535, 401.538, 401.543, 401.546, 401.638, 401.639, 401.641, 401.643, 401.645, 401.651 to  
5 401.670 and 401.990 are added to and made a part of ORS 401.015 to 401.039.

6  
7 **DEFINITIONS**

8  
9 **(Generally)**

10  
11 **SECTION 17.** ORS 401.025 is amended to read:

12 401.025. As used in ORS [190.155 to 190.170, 401.015 to 401.107, 401.257 to 401.325 and 401.355 to  
13 401.584, unless the context requires otherwise] **401.015 to 401.039:**

14 [(1) "Abnormal disruption of the market" means any human created or natural event or circum-  
15 stance that causes essential consumer goods or services to be not readily available.]

16 [(2) "Beneficiary" has the meaning given that term in ORS 656.005.]

17 [(3) "Commission" means the Seismic Safety Policy Advisory Commission established under ORS  
18 401.337.]

19 [(4) "Emergency" means a human created or natural event or circumstance that causes or threatens  
20 widespread:]

21 [(a) Loss of life;]

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

23 [(c) Human suffering; or]

24 [(d) Financial loss.]

25 **(1) "Emergency" means a human created or natural event or circumstance that causes**  
26 **or threatens widespread loss of life, injury to person or property, human suffering or finan-**  
27 **cial loss, including but not limited to:**

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

32 **(b) A rapid influx of individuals from outside this state, a rapid migration of individuals**  
33 **from one part of this state to another or a rapid displacement of individuals if the influx,**  
34 **migration or displacement results from the type of event or circumstance described in par-**  
35 **agraph (a) of this subsection.**

36 [(5) "Emergency management agency" means an organization created and authorized under ORS  
37 401.015 to 401.107, 401.257 to 401.325 and 401.355 to 401.584 by the state, county or city to provide for  
38 and ensure the conduct and coordination of functions for comprehensive emergency program manage-  
39 ment.]

40 [(6) "Emergency program management" includes all the tasks and activities necessary to provide,  
41 support and maintain the ability of the emergency services system to prevent or reduce the impact of  
42 emergency or disaster conditions which includes, but is not limited to, coordinating development of  
43 plans, procedures, policies, fiscal management, coordination with nongovernmental agencies and or-  
44 ganizations, providing for a coordinated communications and alert and notification network and a  
45 public information system, personnel training and development and implementation of exercises to

1 *routinely test the emergency services system.]*

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

4 [(8) (2) “Emergency service agency” means an organization within a local government [*which*]  
5 **that** performs essential services for the public’s benefit [*prior to*] **before**, during or [*following*] **after**  
6 an emergency[. *This includes, but is not limited to, organizational units within local governments*],  
7 such as law enforcement, fire control, health, medical and sanitation services, public works and en-  
8 gineering, public information and communications.

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

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

14 [(b) *Is a member of the Oregon State Defense Force acting in support of the emergency services*  
15 *system.]*

16 [(10) (3) “Emergency services” [*includes those*] **means** activities [*provided*] **engaged in** by state  
17 and local government agencies [*with emergency operational responsibilities*] to prepare for **an**  
18 **emergency** and [*carry out any activity*] to prevent, minimize, respond to or recover from an  
19 emergency[. *These activities include, without limitation*], **including but not limited to** coordination,  
20 preparedness planning, training, interagency liaison, fire fighting, oil or hazardous material spill or  
21 release cleanup as defined in ORS 466.605, law enforcement, medical, health and sanitation services,  
22 engineering and public works, search and rescue activities, warning and public information, damage  
23 assessment, administration and fiscal management, and those measures defined as “civil defense” in  
24 50 U.S.C. app. 2252.

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

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

28 [(a) *Are or may be bought or acquired primarily for personal, family or household purposes, in-*  
29 *cluding but not limited to residential construction materials or labor, shelter for payment such as a*  
30 *hotel room, food, water or petroleum products such as gasoline or diesel fuel; and]*

31 [(b) *Are necessary for the health, safety or welfare of consumers.]*

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

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

37 [(b) *A rapid influx of individuals from outside this state, a rapid migration of individuals from one*  
38 *part of this state to another or a rapid displacement of individuals if the influx, migration or dis-*  
39 *placement results from the type of event or circumstance described in paragraph (a) of this*  
40 *subsection.]*

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

44 [(15) (4) “Local government” [*means any governmental entity authorized by the laws of this*  
45 *state*] **has the meaning given that term in ORS 174.116.**



1 [(16)] (5) "Major disaster" means any event defined as a "major disaster" under 42 U.S.C.  
2 5122(2).

3 [(17) "Oregon emergency management plan" means the state emergency preparedness operations  
4 and management plan. The Office of Emergency Management is responsible for coordinating emergency  
5 planning with government agencies and private organizations, preparing the plan for the Governor's  
6 signature, and maintaining and updating the plan as necessary.]

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

11 [(19) "Sheriff" means the chief law enforcement officer of a county.]

12 **SECTION 18.** ORS 254.471 is amended to read:

13 254.471. (1) Notwithstanding ORS 171.185, 203.085, 221.230, 221.621, 254.056, 254.470, 254.655,  
14 255.335, 255.345, 258.075, 545.135 and 568.520, the Governor by written proclamation may extend the  
15 deadline for returning ballots in any state, county, city or district election if the Governor receives  
16 a written request for the extension from the Secretary of State. The secretary may request the  
17 Governor to extend the deadline for returning ballots under this section if, after consultation with  
18 affected county clerks, the secretary determines that it would be impossible or impracticable for  
19 electors to return ballots or for elections officials to tally ballots due to an emergency as defined  
20 in ORS 401.025 [(4)].

21 (2) The Governor may not extend the deadline for returning ballots in any state, county, city  
22 or district election under subsection (1) of this section for more than seven calendar days after the  
23 date of the election.

24 (3) The written proclamation required under subsection (1) of this section shall state:

25 (a) The determination of the Governor;

26 (b) The reason the deadline for returning ballots was extended; and

27 (c) The date and time by which ballots must be returned in the election.

28 (4) Notwithstanding any other provision of this chapter, if the Governor extends the deadline for  
29 returning ballots under subsection (1) of this section, a county clerk in any county in this state may  
30 not order a tally report from any vote tally machine in the election until the date and time set by  
31 the Governor by which ballots must be returned in the election.

32  
33 **(Abnormal Disruption of Market)**  
34

35 **SECTION 19.** Section 20 of this 2009 Act is added to and made a part of ORS 401.015 to  
36 **401.039.**

37 **SECTION 20.** For the purposes of this section and ORS 401.106, 401.107 and 401.108:

38 (1) "Abnormal disruption of the market" means any emergency that prevents ready  
39 availability of essential consumer goods or services.

40 (2) "Essential consumer goods or services" means goods or services that:

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

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

(Emergency Management Agency and Emergency Program Manager)

**SECTION 21.** ORS 401.560 is amended to read:

401.560. (1) The sheriff of each county has the responsibility for search and rescue activities within the county. The duty of a sheriff under this subsection may be delegated to a *[qualified] deputy or [emergency service worker]* **other qualified person.**

(2) If the sheriff does not accept the responsibility for search and rescue activities, the chief executive of the county shall *[designate]* **direct** the county emergency program manager **appointed under ORS 401.305** to perform the duties and responsibilities required under ORS *[401.015 to 401.107, 401.257 to 401.325 and 401.355 to 401.584]* **401.550 to 401.590.**

(3) *[The] A sheriff[,]* or *[individual authorized under subsection (1) or (2) of this section, of each county]* **other person performing the duties of the sheriff under this section** shall notify the Office of Emergency Management of each search and rescue in the county and shall request the assignment of incident numbers *[therefor]* **for each search and rescue.**

(4) When search and rescue activities occur in a multicounty area:

(a) The sheriff **of one county**, or *[the authorized individual described in subsection (3) of this section]* **the other person performing the duties of the sheriff of one of the counties under this section**, *[of one county]* shall take charge, or the counties shall form a unified command, as outlined in the National Incident Management System Incident Command System established by Homeland Security Presidential Directive 5 of February 28, 2003; or

(b) If the appropriate sheriff or *[the authorized individual]* **other person** does not assume command as described in paragraph (a) of this subsection, the sheriff who received the initial call shall take charge of the multicounty search and rescue.

**SECTION 22.** ORS 401.570 is amended to read:

401.570. The sheriff of each county, the *[county emergency program manager]* **person** performing the sheriff's duties under ORS 401.560 or duly assigned military or state police personnel may restrict access to a specific search and rescue area. No unauthorized person shall then enter into a restricted area or interfere with a search and rescue. Provision shall be made for reasonable access by members of the media in the performance of newsgathering and reporting. Access shall be restricted for a reasonable period of time necessary to accomplish the search and rescue.

**SECTION 23.** ORS 453.322 is amended to read:

453.322. (1) The State Fire Marshal shall retain for at least five years the information provided by the employer under ORS 453.317.

(2) The State Fire Marshal shall provide copies of the information to each local public health authority, fire district and any public or private safety agency administering a 9-1-1 emergency reporting system pursuant to ORS 401.710 to 401.816 and, upon request, provide copies of the information to the following agencies located within the geographic jurisdiction of the fire district:

(a) Fire districts and other emergency service personnel responding to a hazardous substance incident;

(b) Health professionals;

(c) Law enforcement agencies; and

(d) Local emergency management agencies as *[defined in ORS 401.025]* **described in ORS 401.305.**

(3) The State Fire Marshal may distribute the information provided by an employer under ORS 453.317 to persons outside the jurisdiction of the fire district if the State Fire Marshal considers the

1 information essential to the safe control of an emergency.

2 (4) In addition to the requirements of subsections (2) and (3) of this section, the State Fire  
3 Marshal shall provide, upon request, access to the information provided by employers under ORS  
4 453.317 to any agency of this state.

5  
6 **(Emergency Services System)**  
7

8 **SECTION 24.** ORS 401.035 is amended to read:

9 401.035. (1) **The emergency services system is composed of all agencies and organizations**  
10 **involved in the coordinated delivery of emergency services.** The Governor is responsible for the  
11 emergency services system within the State of Oregon.

12 [(2)] The executive officer or governing body of each county or city of this state is responsible  
13 for the emergency services system within that jurisdiction.

14 [(3)] (2) In carrying out their responsibilities for emergency services systems, the Governor and  
15 the executive officers or governing bodies of the counties or cities may delegate any administrative  
16 or operative authority vested in them by ORS [401.015 to 401.107, 401.257 to 401.325 and 401.355 to  
17 401.584] **401.015 to 401.039** and provide for the subdelegation of that authority.

18  
19 **(Emergency Service Worker)**  
20

21 **SECTION 25.** ORS 401.550 is amended to read:

22 401.550. The Director of the Office of Emergency Management shall appoint a Search and Res-  
23 cue Coordinator to:

24 (1) Coordinate the search and rescue function of the Office of Emergency Management;

25 (2) Coordinate the activities of state and federal agencies involved in search and rescue;

26 (3) Establish liaison with the Oregon State Sheriffs' Association and other public and private  
27 organizations and agencies involved in search and rescue;

28 (4) Provide on-scene search and rescue coordination when requested by an authorized person;

29 (5) Coordinate and process requests for the use of [*emergency service workers*] **volunteers** and  
30 equipment;

31 (6) Assist in developing training and outdoor education programs;

32 (7) Gather statistics in search and rescue operations; and

33 (8) Gather and disseminate resource information of personnel, equipment and materials available  
34 for search and rescue.

35 **SECTION 26.** ORS 480.347 is amended to read:

36 480.347. Notwithstanding ORS 480.330 and 480.340, during an emergency as defined in ORS  
37 401.025, the owner, operator or employee of a dispensing facility may permit nonretail customers,  
38 other than the owner, operator or employee, to use or manipulate at the dispensing facility a card  
39 activated or key activated device for dispensing Class 1 flammable liquids into the fuel tank of a  
40 vehicle or other container if:

41 (1) The owner or operator holds a current nonretail facility license issued by the State Fire  
42 Marshal under ORS 480.350;

43 (2) The fuel is dispensed to an emergency service agency as defined in ORS 401.025 or to an  
44 entity authorized by an emergency service agency to provide services during an emergency;

45 (3) The nonretail customer, other than the owner or operator, dispensing Class 1 flammable

1 liquids is *[an emergency service worker]* a **qualified emergency service volunteer** as defined in  
2 *[ORS 401.025]* **section 2 of this 2009 Act** or an owner or employee of the entity authorized by the  
3 emergency service agency to provide services during an emergency and dispenses Class 1 flammable  
4 liquids only into the fuel tank of a vehicle or other container owned and used by the emergency  
5 service agency or the entity authorized by that agency to provide services during an emergency; and

6 (4) The nonretail customer, other than the owner, operator or employee, dispensing Class 1  
7 flammable liquids satisfies safety training requirements in compliance with rules of the State Fire  
8 Marshal.

9 **SECTION 27.** ORS 801.208 is amended to read:

10 801.208. (1) “Commercial motor vehicle” means a motor vehicle or combination of motor vehicles  
11 that:

12 (a) Has a gross combination weight rating of 26,001 pounds or more, inclusive of a towed unit  
13 with a gross vehicle weight rating of more than 10,000 pounds;

14 (b) Has a gross vehicle weight rating of 26,001 pounds or more;

15 (c) Is designed to transport 16 or more persons, including the driver; or

16 (d) Is of any size and is used in the transportation of hazardous materials.

17 (2) Notwithstanding subsection (1) of this section, the term “commercial motor vehicle” does not  
18 include the following:

19 (a) An emergency fire vehicle being operated by firefighters as defined in ORS 652.050;

20 (b) Emergency vehicles being operated by **qualified** emergency service *[workers]* **volunteers** as  
21 defined in *[ORS 401.025]* **section 2 of this 2009 Act**;

22 (c) A motor home used to transport or house, for nonbusiness purposes, the operator or the op-  
23 erator’s family members or personal possessions;

24 (d) A vehicle that is owned or leased by, or operated under contract with, a mass transit district  
25 or a transportation district when the vehicle is actually being used to transport passengers for hire  
26 and is being operated by a volunteer driver, so long as the vehicle is not one described in subsection  
27 (1)(a) to (d) of this section; or

28 (e) A recreational vehicle that is operated solely for personal use.

29  
30 **(Public Body and Local Government)**  
31

32 **SECTION 28.** ORS 401.015 is amended to read:

33 401.015. (1) The general purpose of ORS *[401.015 to 401.107, 401.257 to 401.325 and 401.355 to*  
34 *401.584]* **401.015 to 401.039** is to reduce the vulnerability of the State of Oregon to loss of life, injury  
35 to persons or property and human suffering and financial loss resulting from emergencies, and to  
36 provide for recovery and relief assistance for the victims of *[such occurrences]* **emergencies**.

37 (2) It is declared to be the policy and intent of the Legislative Assembly that preparations for  
38 emergencies and governmental responsibility for responding to emergencies be placed at the local  
39 *[government]* level. The state shall prepare for emergencies, but shall not assume authority or re-  
40 sponsibility for responding to *[such an event]* **an emergency** unless the appropriate response is be-  
41 yond the capability of the city and county in which *[it]* **the emergency** occurs, the city or county  
42 fails to act, or the emergency involves two or more counties.

43 **SECTION 29.** ORS 401.039 is amended to read:

44 401.039. (1) As used in this section, “unit of government” means any department or agency of  
45 the federal government~~], any state or any agency, office or department of a state, any city, county,~~

1 *district, commission, authority, entity, port or other public corporation organized and existing under*  
2 *statutory law or under a voter-approved charter and any intergovernmental entity created under ORS*  
3 *190.003 to 190.130, 190.410 to 190.440 or 190.480 to 190.490] and any public body as defined by ORS*  
4 **174.109.**

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

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

13 **SECTION 30.** ORS 401.272 is amended to read:

14 401.272. (1) As used in this section:

15 (a) "Companion animal" means a domestic animal commonly kept as a household pet.

16 (b) "Service animal" means an animal that assists or performs tasks for a person with a sensory,  
17 emotional, mental or physical disability.

18 (2) The Office of Emergency Management, in cooperation with the State Department of Agri-  
19 culture and [county and] local governments, shall prepare a written animal emergency operations  
20 plan that provides for the evacuation, transport and temporary sheltering of companion animals and  
21 service animals during a major disaster or an emergency.

22 (3) The office, in developing the plan, shall emphasize the protection of human life and shall  
23 consider:

24 (a) Allowing owners of service animals to be evacuated, transported and sheltered with their  
25 service animals;

26 (b) Establishing a sufficient number of evacuation shelters equipped to temporarily shelter  
27 companion animals and service animals in close proximity to a human sheltering facility;

28 (c) Allowing owners and their companion animals to be evacuated together whenever possible;

29 (d) Establishing an identification system to ensure that owners who are separated from their  
30 companion animals or service animals during an evacuation are provided with all information nec-  
31 essary to locate and reclaim their animals;

32 (e) Transporting companion animals or service animals, in cages or carriers that safely and  
33 securely confine the animals, in an impending major disaster or emergency;

34 (f) Recommending that animal shelters, humane societies, veterinary offices, boarding kennels,  
35 breeders, grooming facilities, animal testing facilities and any other entity that normally houses  
36 companion animals or service animals create evacuation plans for the animals housed at their fa-  
37 cilities;

38 (g) Establishing recommended minimum holding periods for companion animals or service ani-  
39 mals that are sheltered during a major disaster or an emergency; and

40 (h) Creating and promoting an educational campaign for owners of companion animals or service  
41 animals that will:

42 (A) Encourage owners to plan for and incorporate their animals in the owners' personal plans  
43 in the event of a major disaster or an emergency; and

44 (B) Inform owners of companion animals or service animals about the animal emergency oper-  
45 ations plan prepared under this section.

1       **SECTION 31.** ORS 401.274 is amended to read:

2       401.274. (1) As used in this section[.],

3       [(a) “Emergency” has the meaning given that term in ORS 401.025.]

4       [(b)] “livestock” means cattle, horses, sheep and any other animals designated by the State De-  
5       partment of Agriculture.

6       [(c) “Major disaster” has the meaning given that term in ORS 401.025.]

7       (2) The State Department of Agriculture, in cooperation with the Office of Emergency Manage-  
8       ment and [county and] local governments, shall prepare a written livestock emergency operations  
9       plan that provides for the evacuation, transport and temporary sheltering of livestock during a ma-  
10      jor disaster or an emergency.

11      (3) The department, in developing the plan, shall consider:

12      (a) Methods for providing adequate food and water for livestock during a major disaster or an  
13      emergency;

14      (b) Methods for providing livestock with adequate shelter or protection from harsh weather  
15      conditions during a major disaster or an emergency;

16      (c) Creating and promoting an educational campaign for owners of livestock that will:

17      (A) Encourage owners to plan for and incorporate their livestock in the owners’ personal plans  
18      in the event of a major disaster or an emergency; and

19      (B) Inform owners of livestock about the livestock emergency operations plan prepared under  
20      this section; and

21      (d) Any other methods or arrangements that the department determines would protect livestock  
22      during a major disaster or an emergency.

23      **SECTION 32.** ORS 401.309 is amended to read:

24      401.309. (1) **The governing body of a city or county in this state may declare, by ordinance**  
25      **or resolution, that a state of emergency exists within the city or county. The ordinance or**  
26      **resolution must limit the duration of the state of emergency to the period of time during**  
27      **which the conditions giving rise to the declaration exist or are likely to remain in existence.**

28      [(1)] (2) [Each county, city or other municipal corporation] **A city or county** in this state may,  
29      by ordinance or resolution, establish procedures to prepare for and carry out any activity to pre-  
30      vent, minimize, respond to or recover from an emergency. The ordinance or resolution shall describe  
31      the conditions required for the declaration of a state of emergency within the jurisdiction [and the  
32      agency or individual authorized to declare that a state of emergency exists].

33      [(2)] (3) An ordinance or resolution adopted under **subsection (2) of** this section may designate  
34      the emergency management agency, if any, or any other agency or official of the [county, city or  
35      municipal corporation] **city or county** as the agency or official charged with carrying out emergency  
36      duties or functions under the ordinance.

37      [(3)] (4) A [county, city or municipal corporation] **city or county** may authorize an agency or  
38      official to order mandatory evacuations of residents and other individuals after a [declaration of a]  
39      state of emergency [within the jurisdiction] is declared **under this section**. An evacuation under an  
40      ordinance or resolution authorized [by] **under subsection (2) of** this section shall be ordered only  
41      when necessary for public safety or when necessary for the efficient conduct of activities that min-  
42      imize or mitigate the effects of the emergency.

43      [(4)] (5) Nothing in this section shall be construed to affect or diminish the powers of the Gov-  
44      ernor during a state of emergency declared under ORS 401.055. The provisions of ORS [401.015 to  
45      401.107, 401.115 and 401.125 to 401.145] **401.065 to 401.085** supersede the provisions of an ordinance

1 or resolution authorized by this section when the Governor declares a state of emergency within  
2 any area in which such an ordinance or resolution applies.

3 *[(5) As used in this section, "emergency" has the meaning given that term in ORS 401.025.]*

4 **SECTION 33.** ORS 401.590 is amended to read:

5 401.590. (1) A public body **that has authority to conduct search and rescue activities** may  
6 collect an amount specified in this section as reimbursement for the cost of search and rescue ac-  
7 tivities when the public body conducts search and rescue activities for the benefit of hikers,  
8 climbers, hunters and other users of wilderness areas or unpopulated forested or mountainous rec-  
9 reational areas in this state.

10 (2) The public body may collect moneys as authorized by this section from each person for whose  
11 benefit search and rescue activities are conducted. The public body may not collect more than \$500  
12 from an individual under this section and may not collect more than the actual cost of the search  
13 and rescue activities from all of the individuals for whose benefit the activities are conducted.

14 (3) A public body may obtain reimbursement under this section only when:

15 (a) Reasonable care was not exercised by the individuals for whose benefit the search and res-  
16 cue activities are conducted; or

17 (b) Applicable laws were violated by such individuals.

18 (4) Any individual who is charged a fee for reimbursement under this section may appeal the  
19 charge or the amount of the fee to the public body that charged the fee.

20 (5) For the purposes of subsection (3) of this section, evidence of reasonable care includes:

21 (a) The individuals possessed experience and used equipment that was appropriate for the known  
22 conditions of weather and terrain.

23 (b) The individuals used or attempted to use locating devices or cellular telephones when ap-  
24 propriate.

25 (c) The individuals notified responsible persons or organizations of the expected time of depar-  
26 ture and the expected time of return and the planned location or route of activity.

27 (d) The individuals had maps and orienteering equipment and used trails or other routes that  
28 were appropriate for the conditions.

29 (6) As used in this section, "public body" *[means any unit of state or local government that con-*  
30 *ducts or has authority to conduct search and rescue activities]* **has the meaning given that term in**  
31 **ORS 174.109.**

32 **SECTION 34.** ORS 190.156 is amended to read:

33 190.156. As used in ORS 190.155 to 190.170:

34 (1) "Event" means an incident that overwhelms or may overwhelm the resources of a local  
35 government.

36 **(2) "Local government" has the meaning given that term in ORS 174.116.**

37 *[(2)]* **(3)** "Requesting local government" means a local government that requests assistance from  
38 other local governments.

39 *[(3)]* **(4)** "Resources" means employees, services, equipment and supplies of a responding local  
40 government.

41 *[(4)]* **(5)** "Responding local government" means a local government that has responded to a re-  
42 questing local government by providing resources.

43  
44 **(Statewide Emergency Management Plan)**  
45

1 **SECTION 35.** ORS 401.257 is amended to read:

2 401.257. (1) The Office of Emergency Management is established in the Oregon Military De-  
3 partment.

4 (2) The office shall be responsible for:

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

7 (b) Coordinating exercises and training, planning, preparedness, response, mitigation and recov-  
8 ery activities with state and local emergency services agencies and organizations.

9 **(3) The office shall prepare a statewide emergency management plan and update the plan**  
10 **from time to time as necessary.**

11 **SECTION 36.** ORS 401.275 is amended to read:

12 401.275. (1)(a) The Department of State Police shall maintain a system for the notification and  
13 interagency coordination of state resources in response to emergencies involving multijurisdictional  
14 cooperation between the various levels of government and private business entities.

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

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

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

25 (4) Each department of state government, and those agencies of state government identified in  
26 the [Oregon] **statewide** emergency management plan [with] **prepared under ORS 401.257 as having**  
27 emergency service or administrative responsibilities, shall appoint an emergency management coord-  
28 inator as their representative to work with the Office of **Emergency Management** on the devel-  
29 opment and implementation of emergency plans and procedures.

30 (5) The Office of Emergency Management shall adopt rules relating to the planning, adminis-  
31 tration and operation of the notification system maintained under this section.

32  
33 **SECTION, SERIES AND CHAPTER REFERENCES**  
34

35 **SECTION 37.** ORS 18.348 is amended to read:

36 18.348. (1) All funds exempt from execution and other process under ORS 18.358, 18.385 (2) to  
37 (4), 238.445, 344.580, 348.863, [401.405,] 407.595, 411.760, 414.095, 655.530, 656.234, 657.855 and 748.207  
38 and 38 U.S.C. 3101 and 42 U.S.C. 407 shall remain exempt when deposited in an account of a judg-  
39 ment debtor as long as the exempt funds are identifiable.

40 (2) Except as provided in subsection (3) of this section, the provisions of subsection (1) of this  
41 section do not apply to any accumulation of funds greater than \$7,500.

42 (3) Subsection (2) of this section does not apply to funds exempt from execution or other process  
43 under 42 U.S.C. 407.

44 **SECTION 38.** ORS 176.800 is amended to read:

45 176.800. (1) Nothing in ORS 176.750 to 176.815 is intended as a delegation of legislative respon-



1 sibility for the appropriation or authorization of expenditure of public funds, as provided in the  
2 Constitution and laws of this state.

3 (2) The powers vested in the Governor under ORS 176.750 to 176.815 are in addition to, and not  
4 in lieu of, emergency powers vested in the Governor under ORS [401.015 to 401.580 and 401.990]  
5 **401.015 to 401.039** or any other law of Oregon.

6 (3) It is the intent of the Legislative Assembly that if ORS 176.750 to 176.815 and 176.990 are  
7 held unconstitutional as applied to contracts executed before February 26, 1974, ORS 176.750 to  
8 176.815 and 176.990 nevertheless are effective with respect to contracts executed on or after Feb-  
9 ruary 26, 1974, and with respect to renewals or extensions of existing contracts on or after February  
10 26, 1974.

11 **SECTION 39.** ORS 401.065 is amended to read:

12 401.065. [During a state of emergency, the Governor shall:]

13 (1) [Have] **During a state of emergency, the Governor has** complete authority over all exec-  
14 utive agencies of state government and the right to exercise, within the area designated in the  
15 proclamation, all police powers vested in the state by the Oregon Constitution in order to effectuate  
16 the purposes of ORS [401.015 to 401.107, 401.257 to 401.325 and 401.355 to 401.584] **401.015 to**  
17 **401.039.**;

18 (2) [Have] **During a state of emergency, the Governor has** authority to suspend provisions  
19 of any order or rule of any state agency, if the Governor determines and declares that strict com-  
20 pliance with the provisions of the order or rule would in any way prevent, hinder or delay mitigation  
21 of the effects of the emergency[; and].

22 (3) [Have] **During a state of emergency, the Governor has** authority to direct any agencies  
23 in the state government to utilize and employ state personnel, equipment and facilities for the per-  
24 formance of any activities designed to prevent or alleviate actual or threatened damage due to the  
25 emergency, and may direct the agencies to provide supplemental services and equipment to local  
26 governments to restore any services in order to provide for the health and safety of the citizens of  
27 the affected area.

28 **SECTION 40.** ORS 401.074 is amended to read:

29 401.074. Whenever the Governor has declared a state of emergency [under ORS 401.015 to  
30 401.107, 401.257 to 401.325 and 401.355 to 401.584] or the President of the United States has declared  
31 an emergency or a major disaster to exist in this state, the Governor, with the concurrence of the  
32 Joint Committee on Ways and Means or the Emergency Board, if the Legislative Assembly is not  
33 in session, is authorized:

34 (1) To enter into purchase, lease or other arrangements with any agency of the United States  
35 for temporary housing units to be occupied by disaster victims and to make the units available to  
36 local governments of the state.

37 (2) To assist any local government of this state which requires temporary housing for disaster  
38 victims following the declaration of a state of emergency to acquire and prepare a site to receive  
39 and utilize temporary housing units by:

40 (a) Advancing or lending funds available to the Governor from any appropriation made by the  
41 Legislative Assembly or from any other source; and

42 (b) Passing through funds made available by any public or private agency.

43 **SECTION 41.** ORS 401.085 is amended to read:

44 401.085. Whenever the Governor has declared a state of emergency [under ORS 401.015 to  
45 401.107, 401.257 to 401.325 and 401.355 to 401.584], the Governor [shall be authorized to] **may** issue,

1 amend and enforce rules and orders to:

2 (1) Control, restrict and regulate by rationing, freezing, use of quotas, prohibitions on shipments,  
3 price fixing, allocation or other means, the use, sale or distribution of food, feed, fuel, clothing and  
4 other commodities, materials, goods and services;

5 (2) Prescribe and direct activities in connection with use, conservation, salvage and prevention  
6 of waste of materials, services and facilities, including, but not limited to, production, transportation,  
7 power and communication facilities training, and supply of labor, utilization of industrial plants,  
8 health and medical care, nutrition, housing, rehabilitation, education, welfare, child care, recreation,  
9 consumer protection and other essential civil needs; and

10 (3) Take any other action that may be necessary for the management of resources following an  
11 emergency.

12 **SECTION 42.** ORS 401.270 is amended to read:

13 401.270. The Director of the Office of Emergency Management shall be responsible for coordi-  
14 nating and facilitating exercises and training, emergency planning, preparedness, response, miti-  
15 gation and recovery activities with the state and local emergency services agencies and  
16 organizations, and shall, with the approval of the Adjutant General or as directed by the Governor:

17 (1) Make rules that are necessary and proper for the administration and implementation of ORS  
18 [401.015 to 401.107, 401.257 to 401.325, 401.355 to 401.584 and 401.706] **401.015 to 401.039**;

19 (2) Coordinate the activities of all public and private organizations specifically related to pro-  
20 viding emergency services within this state;

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

23 (4) Have such additional authority, duties and responsibilities authorized by ORS [401.015 to  
24 401.107, 401.257 to 401.325 and 401.355 to 401.584] **401.015 to 401.039** or as may be directed by the  
25 Governor;

26 (5) Administer grants relating to emergency program management **under ORS 401.305**, seismic  
27 rehabilitation, emergency services for the state and the statewide 2-1-1 system as provided in ORS  
28 401.294;

29 (6) Provide for and staff a State Emergency Operations Center to aid the Governor and the Of-  
30 fice of Emergency Management in the performance of duties under ORS [401.015 to 401.107, 401.257  
31 to 401.325, 401.355 to 401.584 and 401.706] **401.015 to 401.039**;

32 (7) Serve as the Governor's authorized representative for coordination of certain response ac-  
33 tivities and managing the recovery process;

34 (8) Establish training and professional standards for local emergency program management per-  
35 sonnel;

36 (9) Establish task forces and advisory groups to assist the office in achieving mandated respon-  
37 sibilities;

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

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

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

45 **SECTION 43.** ORS 401.155 is amended to read:

1 401.155. The Governor is authorized to make rules and regulations [as are] necessary to carry  
2 out the purposes of ORS [401.125 to 401.145 and 401.335] **401.065 to 401.085**.

3 **SECTION 44.** ORS 401.315 is amended to read:

4 401.315. In carrying out the provisions of ORS [401.015 to 401.107, 401.257 to 401.325 and 401.355  
5 to 401.584] **401.015 to 401.039**, counties or cities may enter into contracts and incur obligations  
6 necessary to mitigate, prepare for, respond to or recover from [emergencies] **an emergency** or major  
7 disaster. A county shall assess whether an emergency exists.

8 **SECTION 45.** ORS 401.490 is amended to read:

9 401.490. In carrying out the provisions of ORS [401.015 to 401.107, 401.257 to 401.325 and 401.355  
10 to 401.584] **401.015 to 401.039**, the Governor and the executive officers or governing bodies of the  
11 counties and cities may request and utilize the services, equipment, supplies and facilities of existing  
12 departments, offices and agencies of the state and of local governments. The officers and personnel  
13 of all local government departments, offices and agencies may cooperate with, and extend such ser-  
14 vices and facilities to the Governor, to the Office of Emergency Management and to emergency  
15 management agencies and emergency service agencies upon request.

16 **SECTION 46.** ORS 401.580 is amended to read:

17 401.580. (1) An incident number shall be assigned to each search and rescue reported [by an  
18 authorized person] under ORS [401.015 to 401.107, 401.257 to 401.325 and 401.355 to 401.584] **401.560**.

19 (2) The incident number assigned shall be referenced for:

20 (a) The payment of workers' compensation benefits for those persons participating in search and  
21 rescue activities; and

22 (b) The dispatch and request for state, federal and cooperative assistance resources.

23 **SECTION 47.** ORS 401.641 is amended to read:

24 401.641. (1) If county, city or district equipment is assigned and used under ORS 401.638 to re-  
25 spond to a structural collapse or threat of imminent structural collapse in another county, city or  
26 district, the state:

27 (a) Is liable for any resulting loss of, or damage to, the equipment.

28 (b) Shall pay any expense incurred by the responding county, city or district for transportation,  
29 performance or maintenance of the equipment.

30 (2) A claim for loss, damage or expense under subsection (1) of this section must be filed within  
31 60 days after the loss, damage or expense is incurred, or within any extension of time for filing the  
32 claim granted by the Department of State Police. The claim must include an itemized notice of the  
33 claim, signed under oath, and be served by mail or personally upon the department. [An accepted  
34 claim for loss, damage or expense shall be payable from moneys made available under ORS 401.355  
35 to 401.465.]

36 **SECTION 48.** ORS 401.990 is amended to read:

37 401.990. Any person knowingly violating any provision of ORS [401.015 to 401.107, 401.257 to  
38 401.325 and 401.355 to 401.584] **401.015 to 401.039**, or any of the rules, regulations or orders adopted  
39 and promulgated under those sections, shall, upon conviction thereof, be guilty of a Class C  
40 misdemeanor.

41 **SECTION 49.** ORS 469.533 is amended to read:

42 469.533. Notwithstanding ORS [chapter 401] **401.015 to 401.039**, the State Department of Energy  
43 in cooperation with the Department of Human Services and the Office of Emergency Management  
44 shall establish rules for the protection of health and procedures for the evacuation of people and  
45 communities who would be affected by radiation in the event of an accident or a catastrophe in the

1 operation of a nuclear power plant or nuclear installation.

2 **SECTION 50.** ORS 469.535 is amended to read:

3 469.535. Notwithstanding ORS [*chapter 401*] **401.015 to 401.039**, when an emergency exists be-  
4 cause of an accident or catastrophe in the operation of a nuclear power plant or nuclear installation  
5 or in the transportation of radioactive material, the Governor, for the duration of the emergency,  
6 may:

7 (1) Assume complete control of all emergency operations in the area affected by the accident  
8 or catastrophe, direct all rescue and salvage work and do all things deemed advisable and necessary  
9 to alleviate the immediate conditions.

10 (2) Assume control of all police and law enforcement activities in such area, including the ac-  
11 tivities of all local police and peace officers.

12 (3) Close all roads and highways in such area to traffic or by order of the Director of the State  
13 Department of Energy limit the travel on such roads to such extent as the director deems necessary  
14 and expedient.

15 (4) Designate persons to coordinate the work of public and private relief agencies operating in  
16 such area and exclude from such area any person or agency refusing to cooperate with other  
17 agencies engaged in emergency work.

18 (5) Require the aid and assistance of any state or other public or quasi-public agencies in the  
19 performance of duties and work attendant upon the emergency conditions in such area.

20 **SECTION 51.** ORS 469.611 is amended to read:

21 469.611. Notwithstanding ORS [*chapter 401*] **401.015 to 401.039**:

22 (1) The Director of the State Department of Energy shall coordinate emergency preparedness  
23 and response with appropriate agencies of government at the local, state and national levels to en-  
24 sure that the response to a radioactive material transportation accident is swift and appropriate to  
25 minimize damage to any person, property or wildlife. This program shall include the preparation of  
26 localized plans setting forth agency responsibilities for on-scene response.

27 (2) The director shall:

28 (a) Apply for federal funds as available to train, equip and maintain an appropriate response  
29 capability at the state and local level; and

30 (b) Request all available training and planning materials.

31 (3) The Department of Human Services shall maintain a trained and equipped radiation emer-  
32 gency response team available at all times for dispatch to any radiological emergency. Before arrival  
33 of the team at the scene of a radiological accident, the Director of the State Department of Energy  
34 may designate other technical advisors to work with the local response agencies.

35 (4) The Department of Human Services shall assist the Director of the State Department of  
36 Energy to ensure that all emergency services organizations along major transport routes for radio-  
37 active materials are offered training and retraining in the proper procedures for identifying and  
38 dealing with a radiological accident pending the arrival of persons with technical expertise. The  
39 Department of Human Services shall report annually to the Director of the State Department of  
40 Energy on training of emergency response personnel.

41  
42 **MISCELLANEOUS**

43  
44 **SECTION 52.** The unit and section captions used in this 2009 Act are provided only for  
45 the convenience of the reader and do not become part of the statutory law of this state or

1 **express any legislative intent in the enactment of this 2009 Act.**

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