

Arkansas Emergency Services Act of 1973 (Subtitle 5. Emergency Management; Chapter 75)

Subchapter 1 — General Provisions

12-75-101. Title.

This chapter may be cited as the Arkansas Emergency Services Act of 1973.

12-75-102. Policy and purposes.

(a) Because of the existing and increasing possibility of the occurrence of a major emergency or a disaster of unprecedented size and destructiveness resulting from enemy attack, natural or human-caused catastrophes, or riots and civil disturbances and in order to ensure that this state will be prepared to deal with such contingencies in a timely, coordinated, and efficient manner and generally to provide for the common defense and protect the public peace, health, safety and preserve the lives and property of the state, it is found and declared to be necessary to:

(1) Create from the present Office of Emergency Services and current adjunct offices the Arkansas Department of Emergency Management and authorize and direct the creation of comparable local organizations within the political subdivisions of the state;

(2) Confer upon the Governor and upon the executive heads of the political subdivisions of the state the emergency powers provided herein;

(3) Provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to carrying out emergency management functions;

(4) Direct the establishment of emergency management liaison offices within each state department and agency with an emergency management role or responsibility; and

(5) Provide for workers' compensation benefits for emergency management workers performing emergency management operations.

(b) It is further declared to be the purpose of this chapter and the policy of the state to authorize and provide for a disaster management system embodying all aspects of predisaster preparedness and post-disaster response by requiring all:

(1) State and local government offices to coordinate emergency management activities through the department in order to coordinate personnel, equipment, and resources for the most effective and economical use; and

(2) Emergency management-related functions of this state be coordinated to the maximum extent with comparable functions of the federal government, including its various departments and agencies, with other states and localities, and with private agencies of every type, to the end that the most effective preparation and use may be made of the state and national personnel, resources, and facilities for dealing with any disaster that may occur.

(c)

(1) The protection of lives and property is the responsibility of all levels of government.

(2) Except as noted in this chapter, county and municipal governments bear primary responsibility for initial actions and activities related to disaster preparedness, response, and recovery for the county and the municipalities in the county through their local offices of emergency management, with support from the department.

(d)

(1)

(A) When events have exceeded, or will exceed, local government's ability to respond or recover without state assistance, the chief executive officer shall declare a local state of disaster or emergency as prescribed in this chapter to signify his or her intent to request resources of the state or federal government, or both.

(B) Where time constraints are critical to the saving of lives and property, the local chief executive officer may verbally declare a local state of disaster or emergency to the Director of the Arkansas Department of Emergency Management, to be followed by a written declaration as soon as practicable.

(2)

(A) Only upon such declaration may the resources of the state be provided, and then may the state request that the assistance and resources of the federal government be provided, unless and except where the magnitude of the disaster is of such severity that the functions of local government have ceased or the chief executive officer of the municipal or county government, or both, and his or her designated successor have become incapacitated.

(B) Under such conditions the Governor may declare a state of disaster or emergency on behalf of the specified local jurisdiction and direct emergency functions until such time as local government is restored.

12-75-103. Definitions.

As used in this chapter:

(1) "Chief executive" means a head of government, the Governor, a county judge, and a mayor or city manager of incorporated places, dependent on the form and level of government;

(2) "Disaster" means any tornado, storm, flood, high water, earthquake, drought, fire, radiological incident, air or surface-borne toxic or other hazardous material contamination, or other catastrophe, whether caused by natural forces, enemy attack, or any other means which:

(A) In the determination of the Governor or the Director of the Arkansas Department of Emergency Management or his or her designee is or threatens to be of sufficient severity and magnitude to warrant state action or to require assistance by the state to supplement the efforts and available resources of local governments and relief organizations in alleviating the damage, loss, hardship, or suffering caused

thereby, and with respect to which the chief executive of any political subdivision in which the disaster occurs or threatens to occur certifies the need for state assistance and gives assurance of the local government for alleviating the damage, loss, hardship, or suffering resulting from such disaster; or

(B)

(i) Results in an interruption in the delivery of utility services when emergency declarations are required and when delays in obtaining an emergency declaration from the Governor or the director or his or her designee would hamper and delay restoration of utility service.

(ii) In those instances, the Governor or the director or his or her designee may make such emergency determination subsequent to the initiation of the restoration work;

(3) “Emergency jurisdiction” means any one (1) of the seventy-five (75) counties or specified local offices of emergency management or interjurisdictional offices of emergency management in the state;

(4)

(A) “Emergency management” means disaster or emergency preparedness, mitigation, response, recovery, and prevention by state and local governments other than functions for which military forces are primarily responsible to prevent, minimize, and repair injury and damage resulting from major emergencies or from disasters caused by enemy attack, domestic or foreign terrorist attacks, natural causes, human-made catastrophes, or civil disturbances.

(B) These functions include, without limitation:

(i) Fire fighting;

(ii) Law and order;

(iii) Medical and health;

(iv) Rescue;

(v) Engineering;

(vi) Warning;

(vii) Communications;

(viii) Radiological, chemical, biological, or other special material identification, measurement, and decontamination;

(ix) Evacuation or relocation of persons from stricken areas;

(x) Emergency social services such as housing, feeding, and locator services;

(xi) Emergency transportations;

(xii) Plant protection;

- (xiii)** Damage assessment and evaluation;
- (xiv)** Temporary restoration of public facilities;
- (xv)** Emergency restoration of publicly owned utilities, or privately owned utilities serving the public good;
- (xvi)** Debris clearance;
- (xvii)** Hazard vulnerability and capability analysis; and
- (xviii)** Other functions related to the protection of the people and property of the state, together with all other activities necessary or incidental to the preparedness, mitigation, response, recovery, and prevention for all the functions in this subdivision (4)(B);

(5) “Emergency management requirements” means specific actions, activities, and accomplishments required for funding of state offices of emergency management or established local offices of emergency management, or both, under applicable state and federal emergency management program guidance and regulations;

(6) “Emergency management standards” means standards of training, education, and performance established by the director for employees of the state offices of emergency management and established local offices of emergency management designed to ensure competency and professionalism and to determine minimum qualifications for the receipt of federal or state emergency management funding, or both;

(7)

(A) “Emergency responder” means any paid or volunteer person or entity:

(i) With special skills, qualifications, training, knowledge, or experience in the public or private sectors that would be beneficial to an emergency jurisdiction in an emergency declared under § 12-75-108 or training exercises authorized by the United States Department of Homeland Security, the Arkansas Department of Emergency Management, or an emergency jurisdiction; and

(ii) Who is:

(a) Requested by a participating emergency jurisdiction to respond or assist with a declared emergency or with authorized training exercises;

(b) Authorized to respond or assist a participating emergency jurisdiction with a declared emergency or with authorized training exercises; or

(c) Both requested and authorized to respond or assist a participating emergency jurisdiction with a declared emergency or with authorized training exercises.

(B) An emergency responder may include, without limitation, the following types of personnel:

(i) Law enforcement officers;

- (ii) Firefighters;
 - (iii) Hazardous material response personnel;
 - (iv) Decontamination response personnel;
 - (v) Certified bomb technicians;
 - (vi) Emergency medical services personnel;
 - (vii) Physicians;
 - (viii) Nurses;
 - (ix) Public health personnel;
 - (x) Emergency management personnel;
 - (xi) Public works personnel;
 - (xii) Members of community emergency response teams;
 - (xiii) Emergency personnel of nongovernmental organizations; and
 - (xiv) Persons with specialized equipment operations skills or training or any other skills valuable to responding or assisting a participating emergency jurisdiction with a declared emergency or with authorized training exercises.
- (C) “Emergency responder” includes any full-time or part-time paid, volunteer, or auxiliary employee of the state, another state, a territory, a possession, the District of Columbia, the federal government, any neighboring country, or any political subdivision thereof, or of any agency or organization performing emergency management services at any place in this state subject to the order or control of, or pursuant to, a request of the state government or any political subdivision;
- (8) “Governing body” means a county quorum court, a city council, and a city board of directors;
- (9)
- (A) “Hazard mitigation assistance” means funds and programs to correct, alleviate, or eliminate a condition or situation which poses a threat to life, property, or public safety from the effects of a disaster.
- (B) Hazard mitigation assistance may include, but is not limited to, raising, replacing, removing, rerouting, or reconstructing existing public facilities such as roads, bridges, buildings, equipment, drainage systems, or other public or private nonprofit property, as defined in the Disaster Relief Act of 1974, 38 U.S.C. § 3720 and 42 U.S.C. § 5121 et seq.;
- (10) “Individual assistance” means funds and programs to provide for the immediate needs, including, but not limited to, food, clothing, and shelter for individuals and families;
- (11)

(A) “Interjurisdictional agreement” means a mutual agreement between two (2) or more established local offices of emergency management that is approved by executive order of the Governor in accordance with this chapter to merge, integrate, or otherwise combine the functions of the respective established local offices of emergency management for more effective, economical, and efficient use of available personnel and resources.

(B) An interjurisdictional agreement shall include specific provisions addressing the appointment, funding, administration, and operational control of the emergency management coordinator and staff of the interjurisdictional office of emergency management;

(12) “Interjurisdictional office of emergency management” means an office of emergency management formed by two (2) or more local offices of emergency management under an interjurisdictional agreement;

(13) “Local office of emergency management” means a county or municipal office of emergency management created and established in accordance with the provisions of this chapter to perform local emergency management functions within the existing political subdivisions of the state;

(14) “Major emergency” means a condition which requires the activation of emergency response at the state or local levels, either in anticipation of a severe disaster such as an imminent enemy attack, potential civil disturbance, forecast major natural or human-caused disaster, or actual onset of conditions requiring the use of such forces which exceed the day-to-day response and activities of such forces and requires the coordinating of a complement of local, state, federal, or volunteer organizations;

(15)

(A)

(i) “Operational control” means the assigning of missions and the exercising of immediate command and overall management of all resources committed by state or local government to a disaster operation or major emergency.

(ii) Unless otherwise delegated by executive order, the chief executive of the state or local governments, the director, or head of the local office of emergency management as the chief executive's direct representative will exercise operational control of the occurrence and assign missions.

(B) Each agency, department, or organization will exercise control and authority over its personnel and resources to accomplish the assigned mission.

(C)

(i) Each agency, department, or organization will coordinate activities through the Arkansas Department of Emergency Management or local office of emergency management exercising operational control of the occurrence.

(ii) Operational control does not imply, nor is it intended to include, administrative management, which will remain with the parent organization;

(16) “Participating emergency jurisdiction” means an emergency jurisdiction participating in the statewide mutual aid system established in § 12-75-119;

(17) “Political subdivision” means all duly formed and constituted governing bodies created and established under the authority of the Arkansas Constitution and laws of this state;

(18) “Public assistance” means funds and programs to make emergency repairs or restoration of public facilities, to include, but not be limited to, publicly owned or maintained facilities such as roads, streets, bridges, utilities, schools, and other structures and facilities;

(19)

(A) “Public safety agency” means an agency of the State of Arkansas or a functional division of a political subdivision that provides firefighting and rescue, natural or human-caused disaster or major emergency response, law enforcement, and ambulance or emergency medical services.

(B) State offices of emergency management and local offices of emergency management are considered in the context and definition of public safety agencies for performance or coordination of functions defined as emergency management to the extent necessary for mitigation of, planning for, response to, and recovery from disasters or major emergencies;

(20) “Public safety officer” means those positions of state offices of emergency management and local offices of emergency management approved by the director in state and local staffing patterns and authorized by him or her to perform or coordinate emergency management functions to the extent necessary for mitigation of, planning for, response to, recovery from, or prevention of disasters or major emergencies within limitations of this chapter;

(21) “Response assistance” means funds to defray the costs of response to an emergency that does not necessarily result in a disaster of the magnitude and scope described in this section, but which requires the deployment and utilization of state and local government and private emergency personnel, equipment, and resources to protect and preserve lives and property and for the welfare of the citizens of Arkansas; and

(22) “Utility services” means the transmission of communications or the transmission, distribution, or delivery of electricity, water, or natural gas for public use.

12-75-104. Scope of chapter — Limitations.

Nothing in this chapter shall be construed to:

(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health and safety;

(2)

(A) Interfere with dissemination of news or comment on public affairs.

(B) However, any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency;

(3)

(A) Affect the jurisdiction or responsibilities of units of the United States Armed Forces or of any personnel thereof, when on active duty, or the day-to-day operations of law enforcement agencies or firefighting forces.

(B) However, state, local, and interjurisdictional disaster or emergency operations plans shall place emphasis upon maximum utilization of forces available for performance of functions related to disaster and major emergency occurrences; or

(4) Limit, modify, or abridge the authority of the Governor to proclaim martial law or of the Governor or chief executive of a political subdivision to exercise any other powers vested in him or her under the Arkansas Constitution or statutes or common law of this state independent of, or in conjunction with, any provision of this chapter.

12-75-105. [Repealed.]

12-75-106. Enforcement.

(a) Each state office of emergency management and local office of emergency management and the officers of each state office of emergency management and local office of emergency management shall execute and enforce such orders and rules as may be made by the Governor under authority of this chapter.

(b) Each state office of emergency management and local office of emergency management shall make available for inspection at its office all orders and rules made by the Governor or made under his or her authority.

12-75-107. Declaration of disaster emergencies.

(a)

(1) A disaster emergency shall be declared by executive order or proclamation of the Governor if he or she finds a disaster has occurred or that the occurrence or the threat of disaster is imminent.

(2) When time is critical because of rapidly occurring disaster emergency events, the Governor may verbally declare for immediate response and recovery purposes until the formalities of a written executive order or proclamation can be completed in the prescribed manner.

(b)

(1) The state of disaster emergency shall continue until:

(A) The Governor finds that the threat or danger has passed and terminates the state of disaster emergency by executive order or proclamation; or

(B) The disaster has been dealt with to the extent that emergency conditions no longer exist and the employees engaged in the restoration of utility services have returned to the point of origin.

(2) No state of disaster emergency may continue for longer than sixty (60) days unless renewed by the Governor.

(c)

(1) The General Assembly by concurrent resolution may terminate a state of disaster emergency at any time.

(2) Thereupon, the Governor shall issue an executive order or proclamation ending the state of disaster emergency.

(d)

(1) All executive orders or proclamations issued under this section shall indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought it about or which make possible termination of the state of disaster emergency.

(2) In the case of a disaster, each provider of utility services whose services were interrupted shall prepare a report describing:

(A) The type of disaster emergency;

(B) The duration of the disaster emergency, which includes the time the utility personnel is dispensed to the work site and returns to the personnel's point of origin; and

(C) The personnel utilized in responding to the disaster emergency.

(e) An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, filed promptly with the Secretary of State.

(f) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to disaster emergencies.

12-75-108. Local disaster emergencies — Declaration.

(a)

(1) A local disaster emergency may be declared only by the chief executive or his or her designee of a political subdivision.

(2) If time is critical because of a rapidly occurring disaster emergency event, the chief executive verbally may declare a local disaster emergency for immediate response and recovery purposes until the formalities of a written declaration can be completed in the prescribed manner.

(3) A declaration of a local disaster emergency shall not be continued or renewed for a period in excess of one hundred twenty (120) days except by or with the consent of the governing body of the political subdivision.

(4) Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the city or county clerk, as applicable.

(b)

(1) The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable local or interjurisdictional disaster emergency plans, to authorize the furnishing of aid and assistance thereunder, and to initiate emergency management functions under this chapter.

(2)

(A) In addition to other powers conferred on the chief executive declaring a local disaster emergency, the chief executive may suspend the provisions of any local regulatory ordinances or regulations for up to thirty (30) days if strict compliance with the ordinance provisions would prevent, hinder, or delay necessary actions to cope with the disaster emergency.

(B) Local regulatory ordinances include, but are not limited to:

(i) Zoning ordinances;

(ii) Subdivision regulations;

(iii) Regulations controlling the development of land;

(iv) Building codes;

(v) Fire prevention codes;

(vi) Sanitation codes;

(vii) Sewer ordinances;

(viii) Historic district ordinances; and

(ix) Any other regulatory type ordinances.

(c)

(1) An interjurisdictional office of emergency management or official of an interjurisdictional office of emergency management shall not declare a local disaster emergency unless expressly authorized by the

interjurisdictional agreement under which the interjurisdictional office of emergency management functions.

(2) However, an interjurisdictional office of emergency management shall provide aid and services in accordance with the interjurisdictional agreement under which it functions.

(d) If a county judge uses county labor and equipment on private property to provide services that are required as a result of the natural disaster, the county judge shall notify the owner of the private property by any possible method as soon as practicable of:

(1) The amount of private property necessary to provide services;

(2) The nature of labor and equipment to be used on the private property;

(3) The estimated amount of time the private property will be used to provide services; and

(4)

(A) The estimated amount of compensation the county will provide to the owner of the private property as a result of damage to the private property caused by the county.

(B) Within sixty (60) days from the removal of county labor and equipment from the private property, the county shall compensate the owner of the private property for reasonable damage to the property.

12-75-109. Division of Emergency Management — Establishment — Personnel.

(a) The Division of Emergency Management is established as a public safety agency of the State of Arkansas.

(b)

(1) The Division of Emergency Management shall have a Director of the Division of Emergency Management who is appointed by the Governor, with the advice and consent of the Senate, and who shall serve at the pleasure of the Governor.

(2) The director shall report to the Secretary of the Department of Public Safety.

(c)

(1) The division shall have such professional, technical, secretarial, and clerical employees and may make such expenditures within its appropriations or from any federal or other funds made available to it from any source whatsoever for the purpose of emergency services, as may be necessary to carry out the purposes of this chapter.

(2) All such employees shall be in job positions as approved by the secretary and the Office of Personnel Management.

(d)

(1) There is created within the division an emergency reserve cadre to be composed of trained and available specialists to assist regular employees during declared disaster response and recovery operations.

(2) The director shall establish training and professional standards required to supplement state personnel based on state and federal disaster recovery program needs and shall establish a list of persons with those qualifications and make available to emergency reserve cadre personnel such additional training and education opportunities as may be needed to maintain currency and proficiency in the needed skills.

(3)

(A) Emergency reserve cadre personnel shall be reimbursed at the current state classified entry level salary rate for the position they are temporarily employed to fill and meet such additional training, experience, and qualifications as established by the director for the grade level of the position for which they are employed.

(B) Emergency reserve cadre personnel shall:

(i) Be paid from disaster management funds or administrative funds, or both;

(ii) Be limited to salary, logistical, and travel expenses only; and

(iii) Not accrue ordinary leave, sick leave, or other employee benefits except for workers' compensation eligibility for injuries or death suffered in the line of duty.

(4)

(A) Emergency reserve cadre personnel may be called to active duty upon declaration of a disaster emergency as stipulated in this chapter or the Disaster Relief Act of 1974, Pub. L. No. 93-288, or both, or by executive order of the Governor upon recommendation by the director for due cause or pending emergency needs or for disaster-related assistance to the division as determined by the director and shall remain on active duty no longer than the maximum allowed by the office for part-time employment status.

(B) Based on the size, impact, and magnitude of the disaster event, the director shall determine the minimum number of emergency reserve cadre personnel required to effectively supplement regular state emergency management personnel.

(5) While in service described in subdivision (d)(4)(A) of this section, the emergency reserve cadre personnel have the same immunities as regular state employees for good faith performance of their designated and assigned official duties under state sovereignty laws and practices.

12-75-110. Division of Emergency Management — State emergency operations plan.

(a) The Division of Emergency Management shall coordinate and maintain a state emergency operations plan and keep it current, which plan may include:

(1) Prevention and minimization of injury and damage caused by disaster;

- (2) Measures for prompt and effective response to disasters;
- (3) Emergency relief;
- (4) Identification of areas particularly vulnerable to disasters;
- (5) Recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
- (6) Assistance to local officials in designing local emergency action plans;
- (7) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disasters;
- (8) Preparation and distribution to appropriate state and local officials of state catalogues of federal, state, and private assistance programs;
- (9) Organization of personnel and the establishment of chains of command;
- (10) Coordination of federal, state, and local disaster activities;
- (11) Coordination of the state emergency operations plan with the operations plans of the federal government, including without limitation, the National Response Framework;
- (12) Establishment of the criteria and definitions for determining catastrophic losses suffered by both individuals and public entities and the enhanced levels of assistance to be provided upon the declaration of a catastrophic loss disaster; and
- (13) Other necessary matters.

(b)

(1) In preparing and revising the state emergency operations plan, the division shall seek the advice and assistance of state agencies, local government, business, labor, industry, agriculture, civic, and volunteer organizations, and community leaders.

(2) In advising local and jurisdictional agencies, the division shall encourage them also to seek advice from the entities listed in subdivision (b)(1) of this section.

(c) The state emergency operations plan or any part of the state emergency operations plan may be incorporated in rules of the division or executive orders that have the force and effect of law.

12-75-111. Division of Emergency Management — Other powers and duties.

(a) The Division of Emergency Management shall, with the assistance and cooperation of other state and local government agencies:

(1) Determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of an emergency;

- (2) Procure and pre-position supplies, medicines, materials, and equipment;
- (3) Promulgate standards and requirements for local and interjurisdictional emergency operations plans;
- (4) Periodically review local and interjurisdictional emergency operations plans;
- (5) Provide for mobile support units;
- (6) Establish and operate or assist political subdivisions, their local offices of emergency management, and interjurisdictional offices of emergency management to establish and operate training programs and programs of public information;
- (7) Make surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of this chapter;
- (8) Plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;
- (9) Establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery;
- (10) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;
- (11) Prepare for issuance by the Governor of executive orders, proclamations, and rules as necessary or appropriate in coping with disasters;
- (12) Cooperate with the federal government and any public or private agency or entity in achieving the purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery; and
- (13) Do other things necessary, incidental, or appropriate for the implementation of this chapter.

(b)

(1) The division shall take an integral part in the development and revision of local and interjurisdictional emergency operations plans prepared under § 12-75-118.

(2)

(A) To meet the requirements of subdivision (b)(1) of this section, the division shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their local offices of emergency management, interjurisdictional planning, and interjurisdictional offices of emergency management.

(B) Personnel described in subdivision (b)(2)(A) of this section shall consult with political subdivisions, local offices of emergency management, and interjurisdictional offices of emergency management on a regularly scheduled basis and shall make field examinations of the area, circumstances, and conditions to

which particular local and interjurisdictional emergency operations plans are intended to apply and may suggest or require revisions.

(c)

(1) The division shall administer and operate the Arkansas Wireless Information Network.

(2) The division shall perform all functions necessary to maintain and operate the Arkansas Wireless Information Network, including without limitation:

(A) Employ personnel;

(B) Manage, maintain, and acquire all equipment and assets;

(C) Enter into contracts and lease agreements on behalf of the Arkansas Wireless Information Network; and

(D) Administer the budget, expenditures, and all funding of the Arkansas Wireless Information Network.

12-75-112. Communications networks.

(a) The Division of Emergency Management shall operate and maintain information systems which will make available both voice and data links with federal agencies, other states, and state agencies as are assigned an emergency management role in the state emergency operations plan and local offices of emergency management.

(b) In addition to the minimum requirements of subsection (a) of this section, additional information systems networks may be established as deemed necessary by the Director of the Division of Emergency Management.

12-75-113. Emergency response vehicles.

(a) Due to the time-critical nature of response to the scene of a disaster or major emergency occurrence, the Director of the Division of Emergency Management may designate appropriate vehicles as requested in the staffing patterns of the state offices of emergency management and local offices of emergency management and designate other state agency vehicles with an emergency management response requirement as emergency response vehicles.

(b) Designated state and local government emergency response vehicles under this chapter shall share the same privileges and immunities regarding traffic laws and ordinances as other emergency vehicles as defined by state law.

(c) Emergency vehicles authorized by this chapter shall be identified by a flashing light or rotating beacon which will be green in color.

(d) When responding to an emergency, the designated emergency vehicle shall have flashing lights or rotating beacon activated and must be equipped with and operating a siren device.

12-75-114. Governor — Disaster emergency responsibilities.

(a) The Governor is responsible for meeting and mitigating, to the maximum extent possible, dangers to the people and property of the state presented or threatened by disasters.

(b)

(1) Under this chapter, the Governor may issue executive orders, proclamations, and rules and amend or rescind them.

(2) Executive orders, proclamations, and regulations have the force and effect of law.

(c)

(1) There is created within the office of the Governor a disaster response fund, a disaster recovery fund, a catastrophic loss fund, and a hazard mitigation fund, which shall be separate and apart from the Governor's standard emergency fund.

(2) The initial amount of the disaster response fund shall be in the amount of two million dollars (\$2,000,000), solely for use to defray the cost of immediate emergency response.

(3) The disaster recovery fund shall be in the amount of five million dollars (\$5,000,000), with:

(A) The sum of two million dollars (\$2,000,000) from the disaster recovery fund solely for use in individual assistance; and

(B) The sum of three million dollars (\$3,000,000) from the disaster recovery fund solely for use in public assistance.

(4) The hazard mitigation fund shall be in the amount of three million dollars (\$3,000,000), solely for use in hazard mitigation assistance.

(5) The sum of three million two hundred fifty thousand dollars (\$3,250,000) from the catastrophic loss fund solely for use in catastrophic losses suffered by both individuals and public entities.

(6) The Governor's disaster fund may be increased from time to time at the discretion of the Governor.

(7) Expenditures from the individual assistance and public assistance funds may only be made in the event of a disaster as defined in § 12-75-103 and only upon proclamation by the Governor.

(8) Expenditures from the emergency response fund shall be made by executive order of the Governor, upon recommendation and verification by the Director of the Division of Emergency Management, and may only be made to defray immediate costs associated with response activities by emergency forces of state and local governments and private nonprofit forces duly registered in accordance with § 12-75-129.

(9)

(A) Expenditures from the hazard mitigation fund shall be made by executive order of the Governor.

(B) The director shall establish and maintain a current hazard vulnerability analysis of key critical public facilities eligible for assistance under the Governor's hazard mitigation fund.

(10)

(A) Expenditures from the catastrophic loss fund may only be made in the event of a federally declared disaster, as well as a disaster as defined in § 12-75-103, and only upon a separate proclamation by the Governor that a disaster has occurred in which catastrophic losses have been suffered by individuals or public entities in the state, or both.

(B) The director shall establish and maintain such criteria as are necessary to administer the funds authorized for catastrophic loss.

(d)

(1) During the continuance of any state of disaster emergency, the Governor is Commander-in-Chief of all forces available for emergency duty.

(2) To the greatest extent practicable, the Governor shall delegate or assign operational control by prior arrangement embodied in appropriate executive orders or rules, but nothing in this section restricts the Governor's authority to do so by orders issued at the time of the disaster emergency.

(e) In addition to any other powers conferred upon the Governor by law, the Governor may:

(1) Suspend the provisions of any regulatory statutes prescribing the procedures for conduct of state business, or the orders or rules of any state agency, if strict compliance with the provisions of any statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(2) Utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster emergency;

(3) Transfer the direction, personnel, or functions of state departments and agencies or units of state departments and agencies for the purpose of performing or facilitating emergency management;

(4) Subject to any applicable requirements for compensation under § 12-75-124, commandeer or utilize any private property if he or she finds this necessary to cope with the disaster emergency;

(5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the Governor deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles; and

(9) Make provision for the availability and use of temporary emergency housing.

12-75-115. Disaster prevention generally.

(a)

(1) In addition to disaster prevention measures as included in the state, local, and interjurisdictional emergency operations plans, the Governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters.

(2) At the Governor's direction, and pursuant to any other authority and competence state agencies have, including, but not limited to, those charged with responsibilities in flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards shall make studies of disaster prevention-related matters.

(3) Studies under subdivision (a)(2) of this section shall be furnished to the Governor and the Division of Emergency Management as soon as possible after completion and shall concentrate on means of reducing or avoiding damage caused by possible disasters or the consequences of possible disasters.

(4) The Governor, from time to time, shall make recommendations to the General Assembly, local government, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(b)

(1) If the division believes, on the basis of the studies or other competent evidence, that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land use control in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor.

(2) If the Governor, upon review of the recommendation, finds after public hearing that the changes are essential, he or she shall so recommend to the agencies or local governments with jurisdiction over the area and subject matter.

(3) If no action or insufficient action pursuant to the Governor's recommendations is taken within the time specified by the Governor, he or she shall so inform the General Assembly and request legislative action appropriate to mitigate the impact of disaster.

(c)

(1) At the same time that the Governor makes his or her recommendations pursuant to subsection (b) of this section, the Governor may suspend the standard or control which he or she finds to be inadequate to protect the public safety and by rule place a new standard or control in effect.

(2) The new standard or control shall remain in effect until rejected by concurrent resolution of both houses of the General Assembly or amended by the Governor.

(3) During the time it is in effect, the standard or control contained in the Governor's rule shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies.

(4) The Governor's action is subject to judicial review in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., but shall not be subject to temporary stay pending litigation.

12-75-116. State and local governmental entities — Liaison officers.

(a)

(1) It is the policy of this chapter that each department, commission, agency, or institution of state and local government actively and aggressively support the state offices of emergency management and local offices of emergency management to the end of providing the best possible preparation for response to or recovery from any emergency situation that may occur.

(2) In furtherance of the policy described in subdivision (a)(1) of this section, the head of each state department, commission, agency, or institution with an emergency management role or responsibility shall appoint a member or members of his or her staff as agency emergency management liaison officer or officers to act on his or her behalf in ensuring the agency's capability to fulfill its role in emergency management activities and shall ensure that the Division of Emergency Management is notified of any change in the appointment.

(b) The agency emergency management liaison officer shall:

(1) Maintain close and continuous liaison with the division, as applicable;

(2) Prepare agency annexes to the state and, as applicable, local emergency operations plans which are compatible with this chapter and with guidance provided by the division;

(3) Report to the State Emergency Operations Center as required for any disaster training or exercises or emergency training or exercises;

(4) Maintain files of agency resources to include personnel, facilities, and equipment available for disaster operation;

(5) Ensure that the agency can respond promptly and cooperatively with other agencies in any disaster or major emergency situation under the overall management of the division;

(6) Advise, assist, and evaluate the capabilities of counterpart local or federal government agencies in preparing for and carrying out disaster operations;

(7) Designate personnel available for assignment to mobile support units and train such personnel in the tasks to be performed; and

(8) Perform other related functions necessary to carry out the purpose of this chapter.

(c) As conditions or situations may require or dictate, the Director of the Division of Emergency Management may request a state department, agency, or institution not currently participating in the emergency management liaison officer program to appoint an officer in accordance with this section.

(d) Nothing in subsections (a)-(c) of this section shall be interpreted as relieving or otherwise abridging the responsibility and authority of agency directors in carrying out disaster operations for which their agencies are solely responsible.

12-75-117. Interjurisdictional disaster planning and service areas.

(a)

(1)

(A) By executive order, the Governor may combine two (2) or more established local offices of emergency management as an interjurisdictional office of emergency management.

(B)

(i) Before a combination under subdivision (a)(1)(A) of this section, the jurisdictions involved shall prepare for the Governor's approval a written mutual interjurisdictional agreement that specifies how and by whom the emergency management coordinator shall be appointed.

(ii) The interjurisdictional agreement shall also include specific provisions addressing the funding, administration, staff, and operational control of the interjurisdictional office of emergency management.

(C) The interjurisdictional office of emergency management shall meet the same minimum standards and requirements as a single-jurisdiction local office of emergency management in order to maintain eligibility for state and federal emergency management funding and program assistance.

(2) A finding of the Governor pursuant to this subsection shall be based on an assessment conducted by the Director of the Division of Emergency Management using one (1) or more factors related to the difficulty of maintaining an efficient, effective, and economical system for disaster and emergency preparedness, mitigation, response, and recovery such as:

(A) Small or sparse population;

(B) Limitations on public financial resources severe enough to make maintenance of a separate established local office of emergency management unreasonably burdensome;

(C) Unusual vulnerability to disasters and emergencies based on geographical, geological, hydrological, meteorological, or technological disaster potential; and

(D) Other relevant conditions or circumstances.

(b)

(1) If the Governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states and that it would be desirable to establish an interstate relationship, mutual aid, or an area organization for disaster, he or she shall take steps toward that end as may be desirable.

(2) If this action is taken with jurisdictions having enacted the Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq., any resulting agreement or agreements may be considered supplemental agreements pursuant to Article VI of that compact.

(3)

(A) If the other jurisdiction or jurisdictions with which the Governor proposes to cooperate pursuant to subdivisions (b)(1) and (2) of this section have not enacted that compact, then he or she may negotiate a special agreement with the jurisdiction or jurisdictions.

(B) Any agreement, if sufficient authority for the making thereof does not otherwise exist, becomes effective only after its text has been communicated to the General Assembly and neither house of the General Assembly has disapproved it by adjournment of the next ensuing session competent to consider it or within thirty (30) days of its submission, whichever is longer.

12-75-118. Local and interjurisdictional offices of emergency management and services.

(a)

(1) Each political subdivision within this state shall be within the jurisdiction of and served by the Division of Emergency Management and by a local office of emergency management or interjurisdictional office of emergency management.

(2) A local office of emergency management or interjurisdictional office of emergency management shall be established as a public safety agency of its respective political subdivision or political subdivisions and shall be under the direction and control of the appropriate chief executive for the purposes of mitigation of, planning for, response to, and recovery from disaster and major emergency occurrences and for operation of public safety information networks.

(b)

(1) Each county within the state and those municipalities specifically designated by the Governor shall establish, fund, and maintain an established local office of emergency management or, as necessary, make arrangements through an interjurisdictional agreement to receive emergency management.

(2) Unless a municipality has been specifically designated as a local office of emergency management, it shall receive emergency management support from the county or counties where its corporate limits are situated.

(c)

(1) The Governor shall determine if additional municipal local offices of emergency management or interjurisdictional offices of emergency management are required based on an assessment conducted by

the Director of the Division of Emergency Management using one (1) or more of the factors enumerated in § 12-75-117(a).

(2) The division shall publish and keep current a list of municipalities required to have local offices of emergency management or interjurisdictional offices of emergency management under this subsection.

(d) The Governor may require a political subdivision to establish and maintain a local office of emergency management or an interjurisdictional office of emergency management jointly with one (1) or more contiguous political subdivisions if he or she finds that the establishment and maintenance of any agency or participation in an agency is made necessary by circumstances or conditions that make it unusually difficult to provide disaster or major emergency prevention, preparedness, response, or recovery services under other provisions of this chapter.

(e) Each political subdivision that does not have a local office of emergency management and has not made arrangements to secure or participate in the emergency management of an agency shall have a liaison officer designated to facilitate the cooperation and protection of that political subdivision in the work of disaster and major emergency prevention, preparedness, response, and recovery.

(f)

(1) The chief executive of each political subdivision shall exercise comparable authority within his or her political subdivision, and within the limits of the Arkansas Constitution and laws of the state, as the Governor exercises over the state government during disasters and major emergencies. The chief executive shall ensure to the maximum extent possible, that his or her jurisdiction meets the minimum expected capability for disaster and emergency mitigation, planning, response, and recovery.

(2) The chief executive of a political subdivision shall notify the division of the manner in which the political subdivision is providing or securing disaster planning and emergency management, provide a staffing pattern for the local office of emergency management, identify the person who heads the local office of emergency management, and furnish additional information relating thereto as the division requires.

(g)

(1) Each local office of emergency management and interjurisdictional office of emergency management shall prepare and keep current an emergency operations plan for its area.

(2)

(A) The emergency operations plan and all annexes must be approved by the local office of emergency management of the political subdivision and receive concurrence of the chief executive of the political subdivision.

(B) The emergency operations plan shall then be submitted to the division for approval prior to implementation.

(h) The local office of emergency management or interjurisdictional office of emergency management, as the case may be, shall prepare a clear and complete statement of the emergency responsibilities of all

local agencies and officials and of the disaster and major emergency chain of command. This statement shall be distributed to all appropriate officials in written form.

(i)

(1)

(A) The county judge of each county and the chief executive of those municipal jurisdictions specifically designated as established local offices of emergency management shall appoint an emergency management coordinator for their respective local offices of emergency management.

(B) The written mutual interjurisdictional agreement between the participating jurisdictions in an interjurisdictional office of emergency management, executed under § 12-75-117(a), shall govern the appointment of the emergency management coordinator of the interjurisdictional office of emergency management.

(C) The emergency management coordinator shall act for and on behalf of the appropriate chief executive to manage and coordinate the functions, duties, and activities of the established local office of emergency management.

(2) The emergency management coordinator and such supporting staff of an established local office of emergency management as may be employed in part, or in whole, by state and federal emergency management program funds, shall be responsible for meeting all standards and requirements stipulated for funding under the programs.

(3)

(A) The director shall establish and periodically review criteria necessary to ensure compliance with minimum standards and requirements.

(B) Failure to meet or maintain minimum standards and requirements or noncompliance with any part of this chapter by an established local office of emergency management may result in a decision by the director to reduce, withhold, or terminate partial or full funding for any or all local offices of emergency management programs in which the political subdivision participates or for which it may be otherwise eligible.

(j)

(1) Local offices of emergency management shall operate and maintain as a minimum an information systems link with the division.

(2)

(A) When authorized by the chief executive of the political subdivision and properly staffed, the local office of emergency management may operate a public safety communications center for the purposes of coordination, dispatch, and information services for local government public safety agencies and private or volunteer agencies with an emergency management mission.

(B) The public safety communications center must be staffed by paid local office of emergency management public safety officers of the political subdivision and operate on a continuous basis if it is to serve as a law enforcement or fire dispatch and service center.

12-75-119. Statewide mutual aid system.

(a)

(1) All emergency jurisdictions shall participate in the statewide mutual aid system, except as provided in subdivision (a)(2) of this section.

(2)

(A) An emergency jurisdiction may elect not to participate in the statewide mutual aid system.

(B) In order to make the election, the governing body of the emergency jurisdiction shall enact a resolution declaring that the emergency jurisdiction elects not to participate in the statewide mutual aid system.

(C) The chief executive officer of the governing body shall provide a copy of the resolution to the Division of Emergency Management within ten (10) days of the enactment of the resolution.

(b) Within its own emergency jurisdiction, a participating emergency jurisdiction shall:

(1) Identify potential problems and hazards that could affect the emergency jurisdiction using an identification system common to all participating emergency jurisdictions;

(2) Conduct joint planning, intelligence sharing, and threat assessment development with contiguous participating emergency jurisdictions;

(3) Conduct joint training exercises with contiguous participating emergency jurisdictions at least one (1) time every other year;

(4) Identify and inventory, at least annually, current services, equipment, supplies, personnel, and other resources related to planning, prevention, mitigation, and response and recovery activities of the participating emergency jurisdiction; and

(5) Adopt and implement an incident management system consistent with Homeland Security Presidential Directive-5, as it existed on January 1, 2005.

(c)

(1) The chief executive officer of the governing body of a participating emergency jurisdiction or his or her designee may request assistance from another participating emergency jurisdiction:

(A) To prevent, mitigate, or respond and recover from a local emergency declared under § 12-75-108; or

(B) To conduct joint training exercises.

(2)

(A) A request for assistance may be made verbally or in writing.

(B) Verbal requests shall be followed with written confirmation as soon as practical.

(3)

(A) A request for assistance is not required to be reported to the division in advance of or concurrent with the request.

(B) However, a request for assistance shall be reported to the division in writing as soon as practical.

(d) A participating emergency jurisdiction's obligation to provide assistance to another participating emergency jurisdiction with the prevention, mitigation, and response and recovery activities related to a declared emergency or training exercises is subject to the following conditions:

(1) There must be a local emergency declared under § 12-75-108 or a plan to conduct training exercises;

(2) A responding participating emergency jurisdiction may withhold its resources to the extent necessary to provide reasonable protection and services for its own emergency jurisdiction;

(3)

(A) An emergency responder from a participating emergency jurisdiction responding to a request for assistance from another participating emergency jurisdiction shall remain under the command control of his or her home jurisdiction, including use of medical protocols, standard operating procedures, and other protocols and procedures identified by the division.

(B) However, for the duration of the assistance, the emergency responder shall be under the operational control of the participating emergency jurisdiction requesting assistance in accordance with the incident management system of that participating emergency jurisdiction; and

(4)

(A)

(i) Equipment and supplies belonging to a participating emergency jurisdiction responding to a request for assistance from another participating emergency jurisdiction shall remain under the command control of the responding participating emergency jurisdiction.

(ii) However, for the duration of the assistance, the equipment and supplies shall be under the operational control of the participating emergency jurisdiction requesting assistance in accordance with the incident management system of that participating emergency jurisdiction.

(B) A participating emergency jurisdiction providing assistance may donate equipment, supplies, or any other kind of asset to another participating emergency jurisdiction.

(e) If an emergency responder holds a license, certificate, or other permit issued by a participating emergency jurisdiction or the state evidencing qualification in a professional, mechanical, or other skill and the assistance of the emergency responder is requested by a participating emergency jurisdiction, the

emergency responder shall be deemed to be licensed, certified, or permitted in the participating emergency jurisdiction requesting assistance for the duration of the declared emergency or training exercises, subject to any limitations and conditions imposed by the chief executive officer of the governing body of the participating emergency jurisdiction receiving the assistance.

(f)

(1)

(A) A participating emergency jurisdiction receiving assistance under the statewide mutual aid system shall reimburse a participating emergency jurisdiction responding to a request for assistance for all expenses associated with providing the assistance other than regular salaries and benefits.

(B) A request for reimbursement shall be made in accordance with procedures developed by the Arkansas Homeland Security Advisory Group and adopted by the division as a rule under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(C) The division shall not provide reimbursement for expenses associated with training exercises except in accordance with applicable rules.

(2)

(A)

(i) If a participating emergency jurisdiction disagrees with another participating emergency jurisdiction regarding reimbursement, the participating emergency jurisdiction asserting the dispute shall notify in writing the chief executive officer of the governing body of the participating emergency jurisdiction with which the dispute exists.

(ii) The notification shall be sent by certified mail, return receipt requested.

(B)

(i) The participating emergency jurisdictions involved in the dispute shall make every effort to resolve the dispute within thirty (30) days of receipt of the written notice by the noncomplaining participating emergency jurisdiction.

(ii) In the event that the dispute is not resolved within ninety (90) days of receipt of written notice of the dispute, either participating emergency jurisdiction may request binding arbitration.

(iii) Arbitration conducted under this subdivision (f)(2)(B) shall be conducted under the commercial arbitration rules of the American Arbitration Association, as in effect on January 1, 2005.

(g)

(1) An emergency responder who assists a participating emergency jurisdiction that is not the emergency responder's home emergency jurisdiction and who sustains injury or death in the course of, and arising out of, the emergency responder's employment is entitled to all applicable benefits normally available from the emergency responder's home emergency jurisdiction.

(2) An emergency responder may receive additional state benefits as provided by law for death in the line of duty.

(h)

(1) All activities performed under this section are deemed to be governmental functions.

(2)

(A) For the purposes of liability, an emergency responder acting under the operational control of a participating emergency jurisdiction requesting assistance is deemed to be an employee of the participating emergency jurisdiction requesting assistance and exercising operational control.

(B) Except in cases of willful misconduct, gross negligence, or bad faith, neither the participating emergency jurisdiction providing assistance nor its employees shall be liable for the death of or injury to persons or for damage to property when complying or attempting to comply with the request of a participating emergency jurisdiction for assistance under the statewide mutual aid system.

(i) This section shall not be construed to prohibit a participating emergency jurisdiction from entering into interjurisdictional agreements with one (1) or more other emergency jurisdictions or emergency services entities and shall not affect any other agreement to which an emergency jurisdiction may be a party.

12-75-120. [Repealed.]

12-75-121. Utilization of existing services and facilities.

(a) In carrying out the provisions of this chapter, the Governor and the chief executives or designees of the political subdivisions of the state are directed to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable.

(b) The officers and personnel of all such departments, offices, and agencies are directed to cooperate with and extend such services and facilities to the Governor and to the emergency management organization of the state upon request.

12-75-122. Political activity prohibited.

An emergency management organization established under the authority of this chapter shall not:

(1) Participate in any form of political activity; or

(2) Be employed directly or indirectly for political purposes.

12-75-123. Appropriations and authority to accept services, gifts, grants, and loans.

(a) Each political subdivision may make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local office of emergency management.

(b)

(1) If the federal government or any agency or officer of the federal government offers to the state, or through the state to any political subdivision, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management or disaster relief, the state, acting through the Governor, or the political subdivision, acting with the consent of the Governor and through its chief executive or governing body, may accept the offer.

(2) Upon such acceptance, the Governor of the state or chief executive or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

(c)

(1) Whenever any person, firm, or corporation shall offer to the state, or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of emergency management, the state, acting through the Governor, or such political subdivision, acting through its chief executive or governing body, may accept such offer.

(2) Upon such acceptance, the Governor of the state, or chief executive or governing body of such political subdivision may authorize any officer of the state, or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state, or such political subdivision and subject to the terms of the offer.

12-75-124. Compensation for services and property.

(a)

(1) Each person within this state shall conduct himself or herself and keep and manage his or her affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to successfully meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency.

(2) This chapter neither increases nor decreases these obligations but recognizes their existence under the Arkansas Constitution and statutes of this state and the common law.

(3) Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this chapter are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his or her services or property without compensation.

(b) The state, any agency of the state, and any political subdivision shall not compensate any personal services except pursuant to statute or local law or ordinance.

(c) Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by the Governor or a member of the disaster emergency forces of this state.

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim therefor with the Arkansas State Claims Commission in the form and manner the commission provides.

(e) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the commission, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

(f) Nothing in this section applies to or authorizes compensation for the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

12-75-125. Donation of property or equipment — Immunity.

(a) Any person owning or controlling real estate or other premises who voluntarily and with or without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock, or practice attack shall, together with his or her successors in interest, if any, not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises for loss of or damage to the property of such person.

(b) The immunity in subsection (a) of this section shall extend to those persons who have voluntarily and with or without compensation granted the use of automotive vehicles, boats or similar equipment, or aircraft for use under the circumstances described in subsection (a) of this section.

12-75-126. Public safety officers.

(a) No person shall be employed or associated in any capacity in any emergency management organization established under this chapter who:

(1) Advocates or has advocated a change by force or violence in the constitutional form of the United States Government or of this state or the overthrow of any government in the United States by force or violence; or

(2) Has pleaded guilty or nolo contendere to or been found guilty of any subversive act against the United States or is under indictment or information charging any subversive act against the United States.

(b) The Director of the Division of Emergency Management and persons he or she may designate from the state and local offices of emergency management staffing patterns shall be sworn public safety officers as defined and limited by this chapter.

(c)

(1) Before entering upon his or her duties, each person who is selected to serve as a public safety officer in an organization of emergency management shall take an oath in writing before a person authorized to administer oaths in this state.

(2) The oath required in subdivision (c)(1) of this section shall be substantially as follows:

“I, _____, do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Arkansas, and that I will faithfully discharge the duties of the office of Public Safety Officer, upon which I am now about to enter.”

(d)

(1)

(A) The director may determine what constitutes the Division of Emergency Management uniform for division personnel.

(B) The chief executive of a local office of emergency management may determine what constitutes a uniform for his or her jurisdiction.

(2) The uniform may include a badge or identification card, or both, of appropriate design and dimensions to identify local office of emergency management personnel as bona fide emergency management workers within their jurisdiction and division personnel as bona fide emergency workers for the state.

(e) Any person issued or provided a badge, identification, or uniform described in subsection (d) of this section shall wear, carry, or display it at such times and places as shall be designated or required by the chief executive of the local jurisdiction for local office of emergency management personnel and by the director for division personnel.

12-75-127. [Repealed.]

12-75-128. Emergency responders — Immunities and exemptions.

(a) All functions under this chapter and all other activities relating to emergency management are declared to be governmental functions.

(b) No emergency responder, except in cases of willful misconduct, gross negligence, or bad faith, when complying with or reasonably attempting to comply with this chapter, or any other rule or regulation promulgated pursuant to the provisions of this section or pursuant to any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity.

(c) The immunity in subsection (b) of this section shall extend to both emergency responders who are employees and to qualified emergency responders who are volunteers.

(d) The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled to under this chapter, under the Workers' Compensation Law, § 11-9-101 et seq., or under the retirement system laws of Arkansas nor the right of any such person to receive any benefits or compensation under any act of the United States Congress.

(e)

(1) Any requirement for a license to practice any professional, mechanical, or other skill does not apply to any authorized emergency management worker who in the course of performing his or her duties as an

emergency management worker practices the professional, mechanical, or other skill during an emergency.

(2)

(A) Subdivision (e)(1) of this section does not apply to a license issued to a health practitioner, as defined in § 12-87-102.

(B) However, a health practitioner license issued by another state is recognized in this state to the extent provided under this chapter, the Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq., the Uniform Emergency Volunteer Health Practitioners Act, § 12-87-101 et seq., and other laws of this state.

(f) Any emergency responder performing emergency preparedness services at any place in this state pursuant to agreements, compacts, or arrangements for mutual aid and assistance, to which the state or a political subdivision of the state is a party, shall possess the same powers, duties, immunities, and privileges he or she would ordinarily possess if performing his or her duties in the state, province, or political subdivision of the state or province in which normally employed or rendering services.

(g)

(1) An emergency responder is not required by this chapter to possess a license, certificate, permit, or other official recognition for his or her expertise in a particular field or area of knowledge.

(2) However, to the extent that an emergency responder engages in a professional activity that by law requires a license, certificate, permit, or other official recognition in order to engage in the professional activity, the emergency responder shall possess the appropriate professional license, certificate, permit, or other official recognition.

12-75-129. Emergency responders — Workers' compensation benefits.

(a)

(1) A person appointed and regularly enrolled in an accredited emergency management organization and covered by this chapter is limited to the Workers' Compensation Law, § 11-9-101 et seq., for benefits payable for an injury to or death of the person, if:

(A) The person is regularly employed by a local government or the state; and

(B) The injury or death occurs while the person is:

(i) Actually engaged in emergency management duties either during training or during a period of emergency; and

(ii) Subject to the order or control of or pursuant to a request of and under the supervision and instruction of the:

(a) Governor;

(b) Division of Emergency Management; or

(c) Chief executive or the designated director of a department, county, or an accredited local government unit making use of emergency management volunteer workers.

(2) If a person described in subdivision (a)(1) of this section is a qualified emergency responder of the state or a local office of emergency management, then recovery is limited as provided in this section.

(b) The remedy provided in this section shall be the exclusive remedy as against the state and political subdivisions thereof.

(c)

(1) For the purpose of workers' compensation coverage in cases of injury to or death of an individual, all duly qualified emergency responders shall be deemed local government or state employees and shall receive compensation, and their survivors shall receive death benefits in like manner as regular local government or state employees for injury or death arising out of and in the course of their activities as emergency responders.

(2) If an emergency responder is injured or killed while subject to the order or control of a local government, compensation and benefits shall be charged against the applicable local government's experience rate and paid from the appropriate state workers' compensation fund.

(3) If the emergency responder was under the order or control of a state agency when injured or killed, compensation and benefits shall be charged against the experience rate of the state agency who exercised order or control at the time of injury or death and paid from the appropriate state workers' compensation fund.

(d)

(1) For the purpose of subsection (c) of this section, the weekly compensation benefits for such emergency responders who receive no monetary compensation for services rendered as such workers shall be calculated based upon the wages received from their regular or usual employments, the same as a regular local or state employee, with respect to injury, disability, or death.

(2) The reimbursement per day for approved out-of-pocket expenses incurred in response to an emergency situation, such as gasoline, oil, uniforms, required equipment, and other items is not considered monetary compensation for the volunteer emergency responder.

(e)

(1) In the event that any person who is entitled to receive benefits through the application of subsection (c) of this section receives, in connection with the injury, disability, or death giving rise to such entitlement, benefits under an act of the United States Congress or federal program providing benefits for emergency responders or their survivors, then the benefits payable under this section shall be reduced to the extent of the benefits received under such other act or program.

(2) Any person who performs the duties of a member or trainee as an adjunct to his or her regular employment and who otherwise would be entitled to receive workers' compensation benefits for his or her

injury, disability, or death, if injured in the performance of such duties, shall be deemed to have been injured, disabled, or killed in the course of his or her regular employment.

(f) An emergency responder shall be deemed duly registered and qualified when he or she is a member of and has on file in either a local office of emergency management or in the division the following information:

(1) Name and address;

(2) Date enrolled; and

(3) Class of service assigned.

(g) Payments and death and disability benefits as provided in this section shall be made from the Workers' Compensation Revolving Fund for state employees.

12-75-130. Call-up of retired law enforcement officers.

(a) In emergency situations the Governor, county sheriff, or municipal police chief may authorize and request retired law enforcement officers, including game wardens, to perform law enforcement functions.

(b) In such instances, the retirement benefits of such retired law enforcement officers shall not be interrupted, reduced, or otherwise adversely affected.

12-75-131. Disaster relief pay.

(a)

(1) The Division of Emergency Management is authorized to provide special compensation to certain employees for each full pay period of eighty (80) hours worked in a job which requires the provision of on-site emergency disaster relief services in cases of wartime, human-made, or natural disasters.

(2) This disaster relief pay covers employees who may be exposed to hazardous or disastrous conditions during the performance of their job duties.

(3)

(A) The rate of pay will be five and one-half percent (5.5%) above the regular authorized pay or rate of pay.

(B) Payment will be controlled through personnel actions by the Director of the Division of Emergency Management.

(b) The rate of pay for individuals who work less than a full pay period of eighty (80) hours or transfer to other work areas not defined in this section, or both, will not receive any enhanced rate of pay for that or subsequent pay periods.

(c) A monthly report shall be made to the Legislative Council describing all payments made to employees under the provisions of this section.

12-75-132. Arkansas Homeland Security Advisory Group — Created.

(a) There is created an advisory body to the Division of Emergency Management, to be known as the “Arkansas Homeland Security Advisory Group”.

(b) The advisory group shall consist of representatives of federal, state, and local agencies and professional associations as determined by the Director of the Division of Emergency Management. The advisory group shall include, at a minimum, representatives of the following:

- (1)** Division of Emergency Management;
- (2)** The Arkansas Ambulance Association;
- (3)** Arkansas Association of Chiefs of Police;
- (4)** Arkansas Association of Fire Chiefs;
- (5)** Arkansas Citizen Corps Point of Contact;
- (6)** Division of Environmental Quality;
- (7)** Department of Health;
- (8)** Arkansas Emergency Management Association, Inc.;
- (9)** Arkansas Highway Police Division of the Arkansas Department of Transportation;
- (10)** Department of Agriculture;
- (11)** Arkansas Municipal League;
- (12)** National Guard;
- (13)** 61st Civil Support Team of the Arkansas National Guard;
- (14)** Arkansas Sheriffs' Association;
- (15)** Division of Arkansas State Police;
- (16)** County Judges Association of Arkansas;
- (17)** Centers for Disease Control and Prevention;
- (18)** Division of Information Systems;
- (19)** Federal Bureau of Investigation;
- (20)** Health Resources and Services Administration of the United States Department of Health and Human Services;
- (21)** United States Secret Service;

(22) United States Attorney for the Eastern District of Arkansas; and

(23) United States Attorney for the Western District of Arkansas.

(c) A representative of the Division of Emergency Management shall serve as chair of the advisory group.

(d) The advisory group shall develop and maintain comprehensive guidelines and procedures that address requirements for the following:

(1) Requesting and providing assistance through the statewide mutual aid system;

(2) Recordkeeping for all participating emergency jurisdictions;

(3) Reimbursement for assistance provided through the statewide mutual aid system; and

(4) Any other process necessary to implement the statewide mutual aid system.

(e) The advisory group shall meet as often as required to:

(1) Review the progress and status of statewide emergency programs;

(2) Assist in developing methods to track and evaluate activation of the statewide mutual aid system; and

(3) Examine issues facing emergency jurisdictions regarding the implementation and management of the statewide mutual aid system.

(f)

(1) The advisory group shall prepare at least annually a report on the condition and effectiveness of the statewide mutual aid system and other emergency programs in the state.

(2) The report shall include recommendations with regard to correcting any deficiencies identified by the advisory group in the statewide mutual aid system.

(3) The advisory group shall submit the report annually to the director and to the House Committee on State Agencies and Governmental Affairs and the Senate Committee on State Agencies and Governmental Affairs.

12-75-133. Position transfer.

Upon approval of the Chief Fiscal Officer of the State, the Arkansas Department of Emergency Management may transfer positions between appropriations as may be required:

(1) If a disaster occurs that results in a presidential disaster proclamation; or

(2) When an employee occupies one (1) position that is to be paid from two (2) or more appropriations during a single fiscal year.

Subchapter 2 — Employees

12-75-201. [Repealed.]