

Chapter 401

Civil Defense and Disaster Relief

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CROSS REFERENCES

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401.010 Short title. ORS 401.010 to 401.190 may be cited as the Oregon Civil Defense Act of 1949.

401.020 Purpose of civil defense legislation; coordination of functions. (1) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, or from fire, flood, earthquake or other natural causes, and in order to insure that preparations of this state will be adequate to deal with such disasters, and generally to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people of the state, it hereby is found and declared to be necessary:

(a) To create a state civil defense agency, and to authorize the creation of local organizations for civil defense in the political subdivisions of the state.

(b) To confer upon the Governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided herein.

(c) To provide for the rendering of mutual aid among the political subdivisions of the state and with other states with respect to the carrying out of civil defense functions.

(2) It is further declared to be the policy of the state that all civil defense functions of this state be coordinated to the maximum extent with the comparable functions of the Federal Government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with any disaster that may occur.

401.030 Definitions for ORS 401.010 to 401.190. As used in ORS 401.010 to 401.190:

(1) "Civil defense" means the preparation for and the carrying out of all emergency functions, other than functions for which the Federal Government is primarily responsible, to minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile actions, or by fire, flood, earthquake or other natural causes. These functions include, without limitation, fire fighting services, police services, medical and health services, rescue, engineering, air raid warn-

ing services, radiological, chemical and other special weapons of defense, evacuation of persons from stricken areas, emergency welfare services, civilian war aid, existing or properly assigned functions of plant protection, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for any carrying out of the foregoing functions, but does not include nor does any provision of ORS 401.010 to 401.190 apply to any condition resulting from a labor dispute.

(2) "Civil defense agency" means the Oregon State Civil Defense Agency established by ORS 401.040.

(3) "Civil defense worker" means any natural person who engages in civil defense and is registered with an accredited civil defense organization or who is pressed into service by a civil defense director or other authorized person.

(4) "Council" means the Civil Defense Advisory Council established by ORS 401.050.

(5) "Director" means the Director of Civil Defense referred to in ORS 401.040.

(6) "Local organization for civil defense" means an organization created in accordance with the provisions of ORS 401.010 to 401.190 by state or local authority to perform local civil defense functions.

(7) "Political subdivision" means any city, town or county within this state

401.040 Department of Civil Defense; director; duties. (1) There is created within the executive branch of the state government a department of civil defense, to be known as the Oregon State Civil Defense Agency, and a Director of Civil Defense. The director shall be appointed by the Governor.

(2) The Governor may employ such technical, clerical, stenographic and other personnel as may be necessary to carry out the purposes of ORS 401.010 to 401.190, fix their compensation and make such expenditures within the appropriation therefor or from other funds made available to him for purposes of civil defense

(3) The director, subject to the direction and control of the Governor, shall be executive head of the civil defense agency and shall be responsible to the Governor for carrying out the program for civil defense of this state. He shall coordinate the activities of all organizations for civil defense within the state, maintain liaison with and cooperate with civil defense agencies and

organizations of other states and of the Federal Government and have such additional authority, duties and responsibilities authorized by ORS 401 010 to 401 190 as may be prescribed by the Governor

401.050 Civil Defense Advisory Council. There is created a Civil Defense Advisory Council, the members of which shall be appointed by the Governor. The council shall consist of five representative citizens of the state, no more than three of whom shall be members of any one political party. The council shall advise the Governor and the director on all matters pertaining to civil defense. The Governor shall serve as chairman of the council. The members thereof shall serve without compensation, but be reimbursed for reasonable and necessary expenses.

401.060 Governor's civil defense duties and powers. (1) The Governor shall have general direction and control of the civil defense agency, and shall be responsible for the carrying out of the provisions of ORS 401 010 to 401 190. In the event of disaster beyond local control, he may assume direct operational control over all or any part of the civil defense functions within this state.

(2) In performing his duties under ORS 401 010 to 401 190, the Governor may:

(a) Cooperate with the Federal Government, with other states and with private agencies in all matters pertaining to the civil defense of this state and of the nation.

(b) Make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of ORS 401 010 to 401 190 within the limits of the authority conferred upon him therein, with due consideration of the plans of the Federal Government.

(c) Prepare a comprehensive plan and program for the civil defense of this state, such plan and program to be integrated into and coordinated with the civil defense plans of the Federal Government and of other states to the fullest possible extent.

(d) Coordinate the preparation of plans and programs for civil defense by the political subdivisions of this state, and integrate and coordinate such plans with the civil defense plan and program of this state as completely as possible.

(e) In accordance with such plan and program for the civil defense of this state, procure supplies and equipment, institute training programs and public information programs, and take all other preparatory

steps including the partial or full mobilization of civil defense organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of civil defense personnel in time of need.

(f) Make such studies and surveys of the industries, resources and facilities in this state as may be necessary to ascertain the capabilities of the state for civil defense, and plan for the most efficient emergency use therefor.

(g) On behalf of this state, enter into mutual aid arrangements with other states and coordinate mutual aid plans between political subdivisions of this state.

(h) Delegate any administrative or operative authority vested in him under ORS 401 010 to 401 190, and provide for the sub-delegation of any such authority.

401.070 Mutual use of supplies and services. In carrying out the provisions of ORS 401 010 to 401 190, the Governor and the executive officers or governing bodies of the political subdivisions of the state may 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. The officers and personnel of all such departments, offices and agencies may cooperate with and extend such services and facilities to the Governor and to the civil defense organizations of the state upon request.

401.080 Local civil defense organization; disaster relief contracts. (1) Each political subdivision of this state shall establish by appropriate local legislation a local organization for civil defense in accordance with the state civil defense plan and program. Each local organization for civil defense shall have a director appointed by the executive officer or governing body of the political subdivision. The local director shall have direct responsibility for the organization, administration and operation of such local organization, subject to the direction and control of such executive officer or governing body. Each local organization for civil defense shall perform civil defense functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside such territorial limits as may be required under ORS 401.110. After appointment and qualification for office, the director of civil defense of any local

organization, and any subordinate civil defense officer within such local organization designated by the director in writing, shall be qualified to administer the loyalty oath provided in ORS 401.160 within this state under such regulations as the director shall prescribe.

(2) In carrying out the provisions of ORS 401.010 to 401.190, each political subdivision may enter into contracts and incur obligations necessary to combat disaster by protecting the health and safety of persons and property, and providing emergency assistance to victims of such disaster [Amended by 1953 c 6 §4]

401.090 Local civil defense appropriation; tax levy. 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 organization for civil defense and may levy taxes upon the assessable property within the political subdivision therefor.

Note: For authority of cities and towns to issue, prior to June 30, 1955, civil defense bonds in excess of ordinary debt limitations, see 1953 c 16 §1

401.100 Acceptance of civil defense aid. Whenever the Federal Government or any agency or officer thereof or any person, firm or corporation offers 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 civil defense, the state acting through the Governor, or such political subdivision acting through its executive officer or governing body, may accept such offer. Upon such acceptance, the Governor or executive officer or governing body of such political subdivision, as the case may be, may authorize any officer thereof to receive such services, equipment, supplies, materials or funds on behalf of the state or such political subdivision, subject to the terms of the offer and any rules and regulations of the agency making the offer.

401.110 Local mutual aid arrangements. The director of each local organization for civil defense may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state civil defense plan and program. In time

of emergency, each local organization for civil defense shall render assistance in accordance with such mutual aid arrangements. All mutual aid arrangements for reciprocal civil defense aid and assistance shall be executed by the participating governing bodies.

401.120 Pay status and powers of registered civil defense workers; reimbursement of political subdivisions or other states for civil defense assistance. (1) If the Governor proclaims the existence of an actual emergency, or in case of a local emergency, registered civil defense workers while on duty within or without the state shall:

(a) If they are employees of the state, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment.

(b) If they are employees of a political subdivision of the state serving within or without such political subdivision, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment.

(c) In performing any civil defense function or duty pursuant to authority or direction of the Governor or any state or local civil defense director, be deemed to be performing a governmental function and shall have the powers, duties, rights, privileges and immunities attached to governmental functions by law.

(d) If they are not employees of the state or a political subdivision thereof, they shall, while on duty, be subject to the operational control of the authority in charge of civil defense activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses.

(2) The state shall reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of employees of such political subdivision while actually serving at the direction of the Governor or Director of Civil Defense in a state civil defense function or capacity.

(3) Whenever civil defense assistance from another state is provided to this state pursuant to the orders of the Governor of the aiding state and upon the request of the Governor of this state, this state shall reimburse such other state for the compensation paid and actual and necessary travel,

subsistence and maintenance expenses of the out-of-state personnel involved while rendering such aid, and for all payments for death, disability or injury of such personnel incurred in the course of rendering aid in training or in a natural disaster, and for all losses of or damage to supplies or equipment of such other state or a political subdivision thereof resulting from the rendering of any aid, all provided the laws of such other state contain provisions substantially similar to ORS 401.120 to 401.150.

401.130 Rights and duties of civil defense workers. (1) No registered civil defense worker of this state shall be ordered by the Governor to operate in any other state unless the laws of such other state contain provisions substantially similar to ORS 401.120 to 401.150.

(2) Any person impressed into duty under the direction of a duly authorized civil defense official shall have the same powers, duties, rights, privileges and immunities as a registered civil defense worker.

401.140 Professional civil defense workers from other states may practice their professions in this state in emergencies. Professional registered civil defense workers from another state rendering emergency service in this state at the request of the Governor under the provisions of subsection (3) of ORS 401.120 shall not be required to be professionally licensed in this state for the practice of their profession. They shall have the same powers, duties, rights, privileges and immunities in the practice of their profession during the period of emergency duty in this state as though they were regularly licensed to practice their profession in this state.

401.150 Powers of peace officers from other states in emergencies. Any regularly appointed peace officer or other person having police power and authority conferred on him by law in the state of his residence shall, upon entering Oregon from another state for the purpose of rendering emergency service in Oregon at the request of the Governor, under the provisions of subsection (3) of ORS 401.120, have and may perform in this state all police duties and functions and exercise police powers, including power of arrest, as bestowed on peace officers of this state as fully as such person might perform like duties and exercise like powers in the state of his residence.

401.160 Employment of personnel by civil defense organizations; limitation; oath. (1) No person shall be employed or associated in any capacity in any civil defense organization established under ORS 401.010 to 401.190 who advocates or has advocated a change by force or violence in the constitutional form of the government in the United States or of this state or the overthrow of any government in the United States by force or violence, or who has been convicted of, or is under indictment or information charging any subversive act against the United States.

(2) Each person who is appointed to serve in an organization for civil defense shall, before entering upon his duties, take an oath or affirmation, in writing, before a person authorized to administer oaths in this state, or before a local civil defense director or a person designated by such local civil defense director in writing, which oath shall be substantially as follows:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Oregon against all enemies, foreign and domestic; that I will bear true faith and allegiance thereto; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties on which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the Government of the United States or of this state by force or violence; and that during such time as I am a member of the (name of civil defense organization) I will not advocate or become a member of any political party or organization that advocates the overthrow of the Government of the United States or of this state by force or violence." [Amended by 1953 c.6 §4]

401.170 Nonliability for civil defense activities; exception. (1) During the existence of an emergency proclaimed by the Governor, neither the state nor any political subdivision thereof, nor other agency, nor, except in cases of wilful misconduct, any agent, employe or representative of any of them, engaged in any civil defense activities, while complying with or attempting to comply with ORS 401.010 to 401.190 or any other rule or regulation promulgated pur-

suant thereto, shall be liable for the death of or an injury to person, or damage to property, as a result of such activity. Neither shall there be any liability on the part of one who owns or maintains any building or premises which have been designated a shelter from destructive operations or attacks by enemies of the United States by any organization of civil defense or any public office, body or officer of this state or the United States, for any injuries sustained by any person while in or upon said building or premises as a result of the condition of said building or premises or as a result of any act or omission, except a wilful act, of such owner or occupant or his servants, agents or employes when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority

(2) The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under ORS 401.010 to 401.190, or under the workmen's compensation law, or under any pension law, nor shall they affect the right of any such person to receive any benefits or compensation under any Act of Congress.

401.180 Political activity of civil defense organizations prohibited. No organization for civil defense established under ORS 401.010 to 401.190 shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

401.190 Defense organization duties. Every civil defense organization established pursuant to ORS 401 010 to 401 190 and the officers thereof shall execute and enforce such orders, rules and regulations as may be made and promulgated by the Governor under authority of such sections. Each such organization shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under his authority.

401.200 to 401.300 [Reserved for expansion]

401.310 Definitions for ORS 401.310 to 401.380. As used in ORS 401 310 to 401 380:

(1) "Civil defense agency" means the Oregon State Civil Defense Agency established by ORS 401.040.

(2) "Eligible political subdivision" means any city, county or rural fire protection district of this state.

(3) "Organizational equipment," "mobile support equipment," and "shelter construction" have the same meaning as defined by federal law relating to grants-in-aid for civil defense, or by regulations of the Federal Civil Defense Administration [Amended by 1953 c.394 §10]

401.320 Civil defense agency designated to negotiate with Federal Government for certain civil defense grants-in-aid. The civil defense agency hereby is designated as the official agency of this state for the purpose of negotiating agreements with the Federal Civil Defense Administration or other appropriate federal agency, on behalf of this state and on behalf of eligible political subdivisions, for the acquisition of federal grants-in-aid, on a matching basis, for the purpose of acquiring organizational equipment or mobile support equipment, or for shelter construction [Amended by 1953 c 394 §10]

401.330 Civil defense agency may receive and distribute federal grants-in-aid. The civil defense agency is authorized to accept and receive on behalf of the state and on behalf of eligible political subdivisions, any federal grants-in-aid for the purpose of acquiring organizational equipment or mobile support equipment, or for shelter construction; to deposit such funds in the State Treasury; and to authorize the disbursement or distribution of the same in accordance with the applicable agreements [Amended by 1953 c.394 §10]

401.340 Acquisition of organizational equipment on cost-sharing basis; ownership, use and care of equipment. (1) The civil defense agency may enter into agreements with one or more eligible political subdivisions, in this state, and the Federal Civil Defense Administration or other appropriate federal agency, for the acquisition of organizational equipment for such eligible political subdivisions, on a cost-sharing basis pursuant to which one-half of the cost is paid by a federal grant-in-aid, one-fourth of the cost is paid by the state out of funds appropriated for that purpose, and one-fourth of the cost is paid by the participating political subdivisions in such proportion as is provided in the agreement

(2) Any organizational equipment so acquired shall become the property of the

political subdivisions who are parties to the agreement, the ownership as between such political subdivisions being as provided for in the agreement. Such organizational equipment shall be subject to the call of the Federal Civil Defense Administration and the civil defense agency for use in time of disaster emergency outside the boundaries of the political subdivision in which ownership is vested. The political subdivisions in which ownership is vested shall be responsible for the storage, care and maintenance of the equipment. [Amended by 1953 c 394 §10]

401.350 Acquisition of mobile support equipment on cost-sharing basis; ownership, use and care of equipment. (1) The civil defense agency may enter into agreements with the Federal Civil Defense Administration or other appropriate federal agency, for the acquisition of mobile support equipment, on a cost-sharing basis pursuant to which one-half of the cost is paid by a federal grant-in-aid, and the other one-half is paid by the state out of funds appropriated for that purpose.

(2) Any mobile support equipment so acquired shall become the property of the state, and shall be under the control of the civil defense agency. The agency shall direct the same for civil defense purposes. Mobile support equipment acquired by the state in accordance with the terms of this section shall be distributed by the civil defense agency to the political subdivisions of this state. The location, storage, care and maintenance of such mobile support equipment shall follow agreement between the recipient political subdivisions and the civil defense agency in accordance with rules and regulations prescribed by the agency governing the location, storage, care and maintenance of such mobile support equipment. [Amended by 1953 c.394 §10]

401.360 Shelter construction. The civil defense agency may act as the negotiating agent on behalf of one or more eligible political subdivisions for the purpose of entering into agreements with the Federal Civil Defense Administration or other appropriate federal agency, for shelter construction, on a cost-sharing basis pursuant to which one-half of the cost is paid by a federal grant-in-aid and the other one-half is paid by the participating political subdivisions in such proportion as is provided in the agreement. [Amended by 1953 c 394 §10]

401.370 Political subdivisions authorized to provide funds for sharing costs. Any eligible political subdivision is authorized to provide funds, from any source from which funds for general operating expenses of the political subdivision may be provided, for the purpose of acquiring organizational equipment, or for shelter construction, in accordance with the provisions of ORS 401.310 to 401.370. No political subdivision may negotiate agreements of the character provided for in ORS 401.310 to 401.370, except through the civil defense agency. [Amended by 1953 c 394 §10]

401.380 Civil Defense Revolving Account; source; use. (1) There hereby is created out of the General Fund in the State Treasury an account to be known as the Civil Defense Revolving Account. All contributions or grants-in-aid from political subdivisions, the Federal Government, and other moneys received or collected by the Oregon State Civil Defense Agency under the provisions of ORS 401.310 to 401.370, and funds appropriated for transfer to such account under authority of law shall be, by the State Treasury, credited to the Civil Defense Revolving Account; which account, notwithstanding the provisions of ORS 291.238, hereby is appropriated for the purchase of organizational and mobile support equipment and for shelter construction pursuant to agreements entered into with the Federal Government and political subdivisions under the provisions of ORS 401.310 to 401.370.

(2) The Secretary of State hereby is authorized and directed to audit all duly approved claims of the Oregon State Civil Defense Agency which have been incurred in pursuance of law and the foregoing appropriation and to draw his warrants on the State Treasurer for the payment thereof payable out of the Civil Defense Revolving Account. [1953 c 394 §8]

401.390 to 401.500 [Reserved for expansion]

401.510 "Emergency" explained. For the purposes of ORS 401.510 to 401.540, an emergency affecting the interests and general welfare of the state exists when in any area of the state the life and property of its citizens in such area and general economic conditions become jeopardized and endangered by floods, earthquakes and other similar disasters or the imminence or results thereof.

401.520 Emergency disaster areas; designation. Whenever the Governor finds that an emergency exists in any area of the state, he shall reduce such finding to writing describing therein the boundaries of the area affected and such writing shall be the subject of a proclamation which shall be published generally throughout the state. The area within such boundaries hereby is designated as an emergency disaster area. Upon finding that the emergency has ceased to exist, the emergency disaster area shall likewise be dissolved by proclamation of the Governor.

401.530 Governor's powers during emergency. During the existence of an emergency, the Governor may.

(1) Assume complete control of all emergency operations in such area, direct all rescue and salvage work and do all things deemed advisable and necessary to alleviate the immediate conditions

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

(3) Close all roads and highways in such area to traffic or by his order limit the

travel on such roads to such extent as he deems necessary and expedient

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

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

401.540 State agency may expend moneys in an emergency. The expenditure of necessary money and use of state property by any such agency in performing duties under ORS 401.530 is authorized. Moneys so expended shall be deemed an administrative expense of such agency, and the Secretary of State is authorized to audit any claim by any such state agency and to draw his warrant thereon payable from the appropriation for the administrative expenses of such state agency.

CHAPTERS 402 TO 405

[Reserved for expansion]

