Chapter 401

1971 REPLACEMENT PART

Civil Defense and Disaster Relief

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CIVIL DEFENSE ACT OF 1949

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 warning 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) "Division" means the Emergency Services Division referred to in ORS 401.040.

(3) "Civil defense worker" means any natural person who engages in civil defense and is registered with an accredited organization for civil defense or who is pressed into service by a civil defense director or other authorized person, and all members of the Oregon National Guard Reserve when acting in support of authorized civil defense missions.

(4) "Council" means the Emergency Services Advisory Council established by ORS 401.050.

(5) "Administrator" means the Administrator of the Emergency Services Division 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 or county within this state.

[Amended by 1967 c.595 §1; 1969 c.80 §8]

401.040 Emergency Services Division; administrator; duties. (1) The Department of Emergency Services that has operated under ORS chapter 401 is hereby transferred to the Executive Department and renamed the Emergency Services Division.

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

(3) Subject to ORS 401.060, the administrator of the division shall be responsible for

carrying out the program for civil defense of this state. He shall:

(a) Coordinate the activities of all organizations for civil defense within the state and the civil defense activities of state agencies that may engage in such activities, including but not limited to the State Military Department and organized militia of the state, the department of the State Fire Marshal, the State Board of Health and State Health Officer, the Highway Division of the Department of Transportation, the Department of State Police, the Public Welfare Division and the Department of General Services.

(b) Maintain liaison with and cooperate with civil defense agencies and organizations of other states and of the Federal Government.

(c) Have such additional authority, duties and responsibilities authorized by ORS 401.010 to 401.190 as may be prescribed by the Governor.

[Amended by 1963 c.528 §1; 1967 c.419 §33; 1969 c.80 §9]

401.050 Emergency Services Advisory Council; compensation and expenses. There is created an Emergency Services Advisory Council. The council shall consist of the Adjutant General, State Fire Marshal, State Health Officer, State Highway Engineer, Superintendent of State Police, State Public Welfare Administrator, Director of the Executive Department, Administrator of the Division of Emergency Services, Director of the Department of General Services, Director of the Oregon Nuclear Emergency Organization and two public members appointed by the Governor. The council shall advise the Governor on all matters pertaining to civil defense. The Governor shall serve as chairman of the council and the Administrator of the Emergency Services Division shall serve as secretary. The members thereof are entitled to compensation and expenses as provided under ORS 292.495.

[Amended by 1963 c.528 §2; 1967 c.419 §34; 1967 c.595 §2; 1969 c.80 §10; 1969 c.314 §32]

401.060 Governor's civil defense duties and powers. (1) The Governor, through the Executive Department of the state, 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 subsection (1) of this section, 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 emergency plan and program of this state as completely as possible.

(e) In accordance with such emergency 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 and of personnel who may perform civil defense functions of state agencies that may engage in civil defense activities 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 subdelegation of any such authority.

(i) Provide for and staff from within resources available to him, a Governor's Emergency Command Post to aid him in the performance of his duties under ORS 401.010 to 401.190.

[Amended by 1963 c.528 §4; 1967 c.595 §3; 1969 c.80 §11]

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 emergency 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 any local organization for civil defense and any subordinate officer within such local organization for civil defense 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.

(3) In carrying out the provisions of ORS 401.010 to 401.190, two or more counties may join in a civil defense program to include provisions for one civil defense or disaster office to serve two or more counties. Such office shall be staffed and funded jointly by the participating counties in accordance with a written agreement entered into by such counties.

[Amended by 1953 c.6 §4; 1967 c.595 §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.

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 employes of the state, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment.

(b) If they are employes 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 employes 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 employes of such political subdivision while actually serving at the direction of the Governor or of the Emergency Services Division of the Executive Department 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 Loyalty of civil defense personnel; 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 personally advocates or has advocated, or who is a member of any political party or organization which advocates 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 employed or associated in any 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 civil defense director or a person designated by such civil defense director in writing, which oath shall be 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 have never advocated, that I do not now advocate and that during such time as I am a member of (name of civil defense organization) I will not advocate the change or overthrow of the Government of the United States or of this state by force or violence.

And I do further swear (or affirm) that I have never been a member of any political party or organization that I knew to advocate the change or overthrow of the Government of the United States or of this state by force or violence and that I am not now a member and that during such time as I am a member of (name of civil defense organization) I will not become a member of any political party or organization that I know advocates the change or overthrow of the Government of the United States or of this state by force or violence.

[Amended by 1953 c.6 §4; 1955 c.451 §1]

401.170 Nonliability for civil defense activities; exception. (1) During the existence of an emergency proclaimed by the Governor, the state and any municipal corporation, political subdivision or agency thereof, or agent, employe or representative of any of them engaged in any civil defense activity, while complying with or attempting to comply with ORS 401.010 to 401.190 or any rule or regulation promulgated pursuant thereto, shall not, except in cases of wilful misconduct, be liable for the death of or injury to any person, or damage to or loss of property, as a result of such activity.

(2) There shall be no liability on the part of one who owns or maintains any building or premises which have been designated a fallout shelter or 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 the death of or injury to any person or loss of or damage to the property of 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 wilful misconduct, 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 or in anticipation of destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority.

(3) 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.

(4) As used in subsection (1) of this section, "representative" includes any person duly authorized to assist the state or a municipal corporation or a political subdivision or agency thereof by an appropriate official thereof.

(5) Nothing in this section shall excuse any governmental agency itself from liability for intentional confiscation or intentional destruction of private property.

[Amended by 1963 c.179 §1; 1971 c.766 §1]

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, every

state agency that may engage in civil defense activities, with regard to those activities, and the officers and personnel 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 and state agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under his authority.
[Amended by 1963 c.528 §5]

EQUIPMENT AND SHELTERS

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 Emergency Services Division to which ORS 401.040 refers.

(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; 1969 c.80 §12]

Note: The Office of Civil and Defense Mobilization has replaced the Federal Civil Defense Administration.

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]

Note: See note for ORS 401.310.

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]

Note: See note for ORS 401.310.

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]

Note: See note for ORS 401.310.

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]

Note: See note for ORS 401.310.

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 in 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 or the Federal Government and other moneys received or collected by the Emergency Services Division of the Executive Department under the provisions of ORS 401.310 to 401.370, and any other funds contributed, granted or appropriated for transfer to the revolving account under authority of law shall be placed in the General Fund and credited to the Civil Defense Revolving Account, which account hereby is appropriated for the purpose of this section. The division may use the revolving account to pay for the purchase of organizational and mobile support equipment and surplus property, for shelter construction, administration and personal services, when the purchase or expense is incurred pursuant to the agency's agreements with the Federal Government, other state agencies or political subdivisions of the state.

(2) The Secretary of State hereby is authorized and directed to audit all duly approved claims of the department 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; 1959 c.403 §1]

POST-ATTACK RESOURCE MANAGEMENT

401.410 Short title. ORS 401.410 to 401.470 may be cited as the "Post-attack Resource Management Act."
[1967 c.480 §1]

401.420 Policy. It is declared to be the purpose of ORS 401.410 to 401.470 and the policy of this state that all resource management functions of this state be coordinated to the maximum extent with the comparable functions of the Federal Government, of other states and localities, and of private agencies, to the end that the most effective preparation and use may be made of available manpower, resources and facilities in the event of an enemy attack.
[1967 c.480 §2]

401.430 Definitions. (1) "Emergency Resources Management Plan" means that plan prepared by the Oregon Nuclear Emergency Organization, coordinated with the Federal Office of Emergency Planning and adopted by the Governor, which sets forth the organization, administration and functions for the emergency management by the state government of essential resources and economic stabilization within the state. Such plan shall provide an emergency organization and emergency administrative policies and procedures for the conservation, allocation, distribution and use of essential resources available to the state following an attack upon the United States. It shall be supplemental to the National Plan for Emergency Preparedness adopted by the President of

the United States. To the extent that the Federal Government is either incapable of conducting or not prepared to conduct its emergency resources management program, the state plan will substitute for and replace the federal program until such time as the federal program becomes effective in the state.

(2) "Enemy attack" means an actual attack by a foreign nation by hostile air raids, or other forms of warfare, upon this state or any other state, territory or possession of the United States.

[1967 c.480 §3]

401.440 Oregon Nuclear Emergency Organization. (1) There is hereby established the Oregon Nuclear Emergency Organization and the office of Director of the Oregon Nuclear Emergency Organization. The Governor may appoint to serve at his pleasure the members of such state organization and the director.

(2) The Oregon Nuclear Emergency Organization shall consist of the Governor, who shall be chairman, the director and persons representative of state government, industry, commerce, labor, agriculture, civic, local government and professional groups designated by the Governor. In the absence of the Governor, the director shall act as chairman.

[1967 c.480 §4]

401.450 Powers of Governor in emergency resources management; rules. (1) The Governor shall have general direction and control of emergency resources management within this state and all officers, boards, agencies, individuals or groups established under the plan.

(2) In performing his duties under ORS 401.410 to 401.470, the Governor is authorized to cooperate with the Federal Government, with other states and with private agencies in all matters pertaining to the emergency management of resources.

(3) In performing his duties under ORS 401.410 to 401.470, and to effect its policies and purpose, the Governor is further authorized and empowered to make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of ORS 401.410 to 401.470 within the limits of authority conferred upon him in ORS 401.410 to 401.470, with due consideration of the emergency resources management plans of the Federal Government.

[1967 c.480 §5]

401.460 Activation of emergency resources management plan; powers of Governor under plan; termination. (1) The Emergency Resources Management Plan will be activated immediately upon enemy attack on any portion of the United States. The plan may also be activated by declaration of a civil defense emergency by the President of the United States, by receipt of attack warning, or by the proclamation by the Governor that an emergency caused by enemy attack exists.

(2) During the period when the proclamation issued pursuant to subsection (1) of this section is in force, or during the continuance of any emergency declared by the President of the United States or the Congress calling for post-attack recovery and rehabilitation activities, subject to the limitations set forth in ORS 401.410 to 401.470, and in a manner consistent with any rules, regulations or orders and policy guidance issued by the Federal Government, the Governor may issue, amend and enforce rules, regulations and orders to:

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

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

(c) Take such other action as may be necessary for the management of resources following an attack.

(3) All rules, regulations and orders issued pursuant to authority conferred by ORS 401.410 to 401.470 shall have the full force and effect of law during the continuance of a proclamation or declaration of emergency as contemplated by this section, when a duplicate original of the rule, regulation or order is filed with the Secretary of State. If, by reason of destruction or disruption attendant upon or resulting from attack, the filing requirements of this subsection cannot

be met, public notice by such means as may be available shall be deemed a complete and sufficient substitute. All existing laws, ordinances, rules, regulations and orders inconsistent with the provisions of ORS 401.410 to 401.470, or any rule, regulation or order issued under the authority thereof, shall be inoperative during the period of time and to the extent such inconsistency exists.

(4) Any authority exercised pursuant to a proclamation or emergency contemplated by this section may be exercised with respect to the entire territory over which the Governor has jurisdiction, or as to any specified part thereof.

(5) When real or personal property is taken to effectuate the purposes of ORS 401.410 to 401.470, the owner thereof shall be entitled to reasonable compensation.

(6) The Governor's power and authority to issue a proclamation or to act thereunder following an attack shall be terminated by the passage of a concurrent resolution of the Legislative Assembly or by declaration of the termination of the emergency by the President or by the Congress, provided further that the proclamation shall terminate automatically six months after issuance and a new proclamation continuing the authority may not be issued unless concurrence is given thereto by a concurrent resolution of the Legislative Assembly.
[1967 c.480 §6]

401.470 Review by Supreme Court of proclamation that emergency exists. Every proclamation and the facts related therein issued under ORS 401.410 to 401.470 shall be subject to judicial inquiry by the Supreme Court as to the existence of the facts underlying the issuance of the proclamation, and whether such action was reasonable under the circumstances.
[1967 c.480 §7]

EMERGENCY DISASTER AREAS

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.

CIVIL DEFENSE SERVICE

401.805 Definitions for ORS 401.805 to 401.890. As used in ORS 401.805 to 401.890:

(1) "Civil defense service" includes all activities authorized by and carried on pursuant to ORS 401.010 to 401.190, including such training as is necessary and proper to engage in such activities.

(2) "Civil defense volunteer" includes any person in civil defense service who is a registered member of a regularly organized and accredited civil defense organization and serves as volunteer without compensation in such organization, and all members of the Oregon National Guard Reserve when acting in support of authorized civil defense missions.

(3) "State Accident Insurance Fund" means the State Accident Insurance Fund created under ORS 656.752.

(4) "Injury" means any personal injury sustained by a civil defense volunteer by accident, disease or infection arising out of and in the course of civil defense service, or death resulting proximately therefrom or from exposure to radiation, noxious gases or germ warfare.

(5) The terms "beneficiary," "child" and "dependent" are defined as provided in ORS 656.002.

[1955 c.679 §1; 1967 c.595 §5; 1969 c.247 §3]

401.810 Eligibility of civil defense volunteers for benefits for injury sustained in civil defense work. (1) Every civil defense volunteer shall receive benefits as provided in ORS 401.805 to 401.890 for injury sustained in civil defense service performed within or without the state:

(a) Where the injury is proximately caused by or in the course of civil defense service, with or without negligence of the civil defense volunteer.

(b) Where the injury is not caused by the voluntary intoxication of the civil defense volunteer.

(c) Where the injury is not intentionally self-inflicted.

(2) No civil defense volunteer or his beneficiary is eligible for benefits under ORS 401.805 to 401.890 if the civil defense volunteer is entitled to receive benefits under the workmen's compensation laws of this state or similar statutes in other states or under any disability, retirement or liability insurance program of his regular employer who has contributed to the cost thereof, or under any federal or local program for compensation of injuries of public employes, in those cases where the injury is compensable because it arose out of and in the course of civil defense duties performed as part of the regular employment of the civil defense volunteer.

[1955 c.679 §§2, 3]

401.815 Only Oregon civil defense workers entitled to benefits. Members of a federal civil defense agency or a civil defense agency of another state or foreign nation who are performing civil defense services in this state are not entitled to benefits under ORS 401.805 to 401.890.

[1955 c.679 §11]

401.820 Minor civil defense volunteers sui juris; employment not in violation of child labor laws. Civil defense volunteers who are minors shall be deemed to be sui juris for the purpose of receiving benefits under ORS 401.805 to 401.890. Civil defense service shall not be deemed employment in violation of any laws of this state relating to labor by minors.

[1955 c.679 §5]

401.825 All state and local civil defense organizations under ORS 401.805 to 401.890. All state and local organizations for civil defense shall register and qualify to come within the provisions of ORS 401.805 to 401.890. Each accredited organization for civil defense and the political subdivision which authorized such organization shall become a party to the agreement made under ORS 401.855 and shall participate in the benefits provided in ORS 401.805 to 401.890.

[1955 c.679 §18; 1967 c.595 §6]

401.830 Record of enrollment of civil defense volunteers. (1) Each director of a civil defense organization shall maintain a record of enrollment of civil defense volunteers who are personnel of his organization. Each record shall contain the name and address of the volunteer, the name of his employer, date of enrollment and authorized classification of assignment to duty, including the times of his assigned duty, as well as changes in enrollment. The record forms shall be supplied by the Emergency Services Division of the Executive Department. Records of membership in the Oregon National Guard Reserve shall be maintained by the Military Department of the State of Oregon.

(2) Records of enrollment shall be open for inspection during usual business hours by

members of the State Accident Insurance Fund or its authorized employes. The director shall furnish to the fund on request such information in the record of enrollment as is required for administration of ORS 401.805 to 401.890.

(3) The information contained in such record of enrollment shall be prima facie evidence of information on which the fund may rely in paying claims of civil defense volunteers or their beneficiaries under ORS 401.805 to 401.890. If such record is not furnished to the fund as required by this section, the burden of proving his right to compensation under ORS 401.805 to 401.890 shall rest on the claimant.
[1955 c.679 §20; 1967 c.595 §7]

401.835 Benefits for injury sustained in civil defense work. If a civil defense volunteer sustains an injury, benefits shall be paid in the same manner as provided for injured workmen under the workmen's compensation laws of this state, except that:

(1) If the injury results in temporary partial disability, no benefits shall accrue to the injured civil defense volunteer on account of loss of wages due to such disability.

(2) Costs of rehabilitation services to disabled civil defense volunteers shall be paid out of the Civil Defense Injury Fund in an amount approved by the State Accident Insurance Fund, which shall be the reasonable and necessary cost of such services, including services of a physician or rehabilitation facility specially qualified to render rehabilitation services. Expenses of rehabilitation may include travel, board and room, when necessary.

(3) The maximum amount payable for medical, surgical or hospital expenses, compensation and rehabilitation on any one claim shall not exceed $7,500.
[1955 c.679 §4; 1957 c.353 §1]

401.840 Benefits not assignable; exempt from execution, attachment and garnishment. No benefits payable under ORS 401.805 to 401.890 are subject to assignment prior to their receipt by the beneficiary entitled thereto, nor shall they pass by operation of law. These benefits and the right to receive them are also exempt from seizure on execution, attachment or garnishment, or by the process of any court.
[1955 c.679 §9]

401.845 Benefits under ORS 401.805 to 401.890 exclusive remedy. The filing of claims for benefits under ORS 401.805 to 401.890 is the exclusive remedy of a civil defense volunteer or his beneficiary for injuries compensable under ORS 401.805 to 401.890 against the state or its political subdivision or any civil defense agency or other person acting under governmental authority in furtherance of civil defense activities, regardless of negligence.
[1955 c.679 §10]

401.850 Claims for benefits. (1) Claims for benefits under ORS 401.805 to 401.890 shall be filed by application with the State Accident Insurance Fund in the manner provided for workmen's compensation claims in ORS 656.001 to 656.794, to the extent not inconsistent with ORS 401.805 to 401.890. The fund may, before granting the claim, require further information for determination of eligibility under ORS 401.805 to 401.890.

(2) The right to benefits under ORS 401.805 to 401.890 shall be barred unless written claim is filed with the fund within 90 days after the injury, or, if death results therefrom, within 90 days after death; except, that if death occurs more than one year after the injury, the right shall be barred unless prior written claim based on the injury has been timely filed. The requirements of this subsection may be waived by the fund on the ground that, for good and sufficient reason, claim could not be filed on time.

(3) The Workmen's Compensation Board may from time to time assess the Civil Defense Injury Fund for the reasonable cost of services provided by the board under ORS 401.805 to 401.890.
[1955 c.679 §§6, 7; 1965 c.285 §80]

401.855 Adjustment and processing of claims and benefit payments. The Emergency Services Division and the State Accident Insurance Fund shall enter into an agreement requiring the fund, as adjusting agent, to adjust and process claims and benefit payments to civil defense volunteers and their beneficiaries. The agreement shall authorize the fund to make all expenditures necessary under ORS 401.805 to 401.890.
[1955 c.679 §17]

401.860 Appeal. Any question of law or fact may be appealed to the circuit court of the county where the injury occurred, if the civil defense volunteer is dissatisfied with the final decision of the State Accident Insurance Fund, within 30 days from the date of mailing of such decision by the fund.
[1955 c.679 §8]

401.865 Civil Defense Injury Fund. There is created a Civil Defense Injury Fund, to be held by the State Treasurer and by him deposited in such banks as are authorized to receive deposits of the General Fund. All moneys received by the State Accident Insurance Fund pursuant to ORS 401.805 to 401.890 from the state or from the Federal Government shall be forthwith paid to the State Treasurer and shall become part of the Civil Defense Injury Fund. All payments of benefits under ORS 401.805 to 401.890 shall be made from the fund. Notwithstanding ORS 291.238, the moneys deposited in the fund are continuously appropriated for the purpose of paying benefits and administrative expenses of the State Accident Insurance Fund. All moneys in the Civil Defense Injury Fund may be invested as provided in ORS 293.701 to 293.776, and the earnings from such investment shall be credited to the Civil Defense Injury Fund.
[1955 c.679 §12; 1967 c.335 §48; 1967 c.637 §§9, 9a]

401.870 Benefits limited by availability of reserves in fund. Liability of the State Accident Insurance Fund or the Civil Defense Injury Fund for the payment of benefits under ORS 401.805 to 401.890 is contingent upon and limited by the availability of reserves in the Civil Defense Injury Fund. In the event that the reserves in the Civil Defense Injury Fund are not sufficient to meet the benefit payments and administration cost for a given period, the expenses of the State Accident Insurance Fund shall have precedence over all other claims. Thereafter, priority among claimants is determined according to the time of filing of the claim.
[1955 c.679 §15]

401.875 Obtaining public or private insurance with fund moneys. Funds credited to the Civil Defense Injury Fund for the purposes of ORS 401.805 to 401.890 may be used to effect insurance or reinsurance with any authority or instrumentality, public or private, or otherwise to distribute the liability for compensation payable to civil defense volunteers
[1955 c.679 §21]

401.880 Disposition of balance in fund upon repeal of ORS 401.010 to 401.190. Within five years after the repeal of ORS 401.010 to 401.190, the State Accident Insurance Fund shall determine the amount of outstanding liabilities of the Civil Defense Injury Fund and establish reasonable reserves to pay to claimants accrued benefits and to meet the cost of administering unpaid claims and the expenses of liquidating the Civil Defense Injury Fund, and the same shall become a charge against the Civil Defense Injury Fund. Any balance in the Civil Defense Injury Fund after establishment of such reserves shall revert to the General Fund, less claim costs.
[1955 c.679 §19]

401.885 Reimbursement of administrative expenses. The State Accident Insurance Fund shall be reimbursed for expenses of services rendered in the administration of ORS 401.805 to 401.890, but such expenses shall not exceed 13 percent of the total receipts under ORS 401.805 to 401.890.
[1955 c.679 §16]

401.890 Acceptance of federal moneys. The State Accident Insurance Fund may also accept and deposit to the credit of the Civil Defense Injury Fund contributions for premiums or compensation of civil defense volunteers from the Federal Government or any of its agencies.
[1955 c.679 §14]

PENALTIES

401.990 Penalties. Any person violating any provision of ORS 401.410 to 401.470 or any of the rules, regulations or orders adopted and promulgated under ORS 401.460 shall, upon conviction thereof, be subject to a fine of not to exceed $5,000 or to a term of imprisonment of not to exceed 10 years, or both.
[1967 c.480 §8]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1971.

Robert W. Lundy
Legislative Counsel

CHAPTERS 402 TO 405

[Reserved for expansion]