

Chapter 401

1981 REPLACEMENT PART

Civil Defense and Disaster Relief; Emergency Telephone Systems

CIVIL DEFENSE ACT OF 1949	
401.010	Short title
401.020	Purpose of civil defense legislation; coordination of functions
401.030	Definitions for ORS 401.010 to 401.205 and 401.220 to 401.255
401.040	Emergency Management Division; administrator; duties
401.050	Emergency Management Advisory Council; compensation and expenses
401.060	Governor's civil defense duties and powers
401.064	Duties of Search and Rescue Coordinator
401.066	Search and rescue activities; responsibilities of sheriff; delegation of sheriff's duties
401.068	Search and rescue mission number
401.070	Mutual use of supplies and services
401.075	Restriction of access to rescue area
401.080	Local civil defense organization; disaster relief contracts
401.090	Local civil defense appropriation; tax levy
401.100	Acceptance of civil defense aid
401.110	Local mutual aid arrangements
401.120	Pay status and powers of registered civil defense workers; reimbursement of political subdivisions or other states for civil defense assistance
401.130	Rights and duties of civil defense workers
401.140	Professional civil defense workers from other states may practice their professions in this state in emergencies
401.150	Powers of peace officers from other states in emergencies
401.160	Loyalty of civil defense personnel; oath
401.170	Nonliability for civil defense activities; exception
401.180	Political activity of civil defense organizations prohibited
401.190	Defense organization duties
401.195	Definitions for ORS 401.195 to 401.205 and 401.220 to 401.255
401.200	Eligibility of civil defense volunteers for benefits for injury sustained in civil defense service
401.205	Registration and qualification of organizations for civil defense
401.210	"Civil defense service" defined; service not in violation of child labor laws
401.215	Record of enrollment of civil defense volunteers
401.220	Benefits for injury sustained in civil defense service
401.225	Benefits not assignable; exempt from execution, attachment and garnishment
401.230	Benefits as exclusive remedy
401.235	Claims for benefits
401.240	Appeal
401.245	Allocation of necessary funds
401.250	Benefits limited by availability of funds; priority among claimants
401.255	Obtaining public or private insurance with available funds
EQUIPMENT AND SHELTERS	
401.310	Definitions for ORS 401.310 to 401.380
401.320	Civil defense agency designated to negotiate with Federal Government for certain civil defense grants-in-aid
401.330	Civil defense agency may receive and distribute federal grants-in-aid
401.340	Acquisition of organizational equipment on cost-sharing basis; ownership, use and care of equipment
401.350	Acquisition of mobile support equipment on cost-sharing basis; ownership, use and care of equipment
401.360	Shelter construction
401.370	Political subdivisions authorized to provide funds for sharing costs
401.380	Civil Defense Revolving Account; source; use
POST-ATTACK RESOURCE MANAGEMENT	
401.410	Short title
401.420	Policy
401.430	Definitions
401.440	Oregon Nuclear Emergency Organization
401.450	Powers of Governor in emergency resources management; rules
401.460	Activation of emergency resources management plan; powers of Governor under plan; termination
401.470	Review by Supreme Court of proclamation that emergency exists
EMERGENCY DISASTER AREAS	
401.510	"Emergency" explained
401.520	Emergency disaster areas; designation
401.530	Governor's powers during emergency
401.540	State agency may expend moneys in an emergency
401.600	Transfer of moneys when disaster funds not sufficient
401.610	Temporary housing for disaster victims; Governor's authority
401.620	Temporary housing for disaster victims; political subdivision's authority
401.630	Federal financial assistance to political subdivision; Governor's authority
401.640	Federal financial assistance to individuals or families; Governor's authority
401.650	Removal of disaster debris or wreckage; unconditional authorization required; liability for injury or damage
401.660	Governor to promulgate rules to carry out ORS 401.600 to 401.650

MILITARY AFFAIRS; DEFENSE; EMERGENCY RELIEF

EMERGENCY TELEPHONE SYSTEMS

- 401.710 Definitions for ORS 401.710 to 401.790
- 401.720 Emergency telephone systems mandatory; requirements; "911" as primary emergency number; alternate numbers required
- 401.730 Emergency Management Division duties and powers
- 401.740 Submission of preliminary plans by local jurisdictions; review; cost estimates
- 401.750 Submission of final plans; exception; approval of plans
- 401.760 Requirement for approval of final plan; division to compel compliance
- 401.770 Pay phones to be converted to allow emergency calls without charge
- 401.780 Agreements among safety agencies for rendering emergency services
- 401.790 Division to assure compliance; proceedings authorized

PENALTIES

- 401.990 Penalties

CROSS REFERENCES

- Administrative procedures and rules of state agencies, 183 310 to 183 550
- Nuclear power accidents, evacuation procedures, health rules, 469 533

Partial tax exemption of radiation fall-out shelters, 307 169

401.040

Emergency Conflagration Act, 476 510
Notice to administrator of derailment or fire involving transporting of hazardous materials, 761 405
Immediate dispatch of public emergency telegrams, 165 475, 165 990
State agencies generally, Ch 182

401.060

Ordering organized militia into active service and declaring martial law, 399 065

401.120

Public employe's wages as affected by absence to engage in search or rescue operation, 652 250

401.510 to 401.660

Emergency area tax deferral, 311 740 to 311 780
Urban renewal plans for disaster areas, 457 160

401.530

Ordering organized militia into active service and declaring martial law, 399 065

401.540

Emergency expenditures, 291 326
Expenditures without allotment prohibited in certain cases, 291 238

CIVIL DEFENSE ACT OF 1949

401.010 Short title. ORS 401.010 to 401.205 and 401.220 to 401.255 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 to coordinate the search, rescue and recovery of victims of outdoor accidents or misfortune, 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 this 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. [Amended by 1975 c.379 §8]

401.030 Definitions for ORS 401.010 to 401.205 and 401.220 to 401.255. As used in ORS 401.010 to 401.205 and 401.220 to 401.255:

(1) "Civil defense" means the preparation for and the carrying out of all functions, other than functions for which the Federal Government is primarily responsible, to prevent, minimize and repair injury and damage re-

sulting from disasters caused by enemy attack, sabotage or other hostile actions, or by fire, explosion, flood, earthquake or other natural or manmade 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, the performance of search and rescue functions, 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 401.205 and 401.220 to 401.255 apply to any condition resulting from a labor dispute.

(2) "Disaster" means occurrence or imminent threat of widespread or severe damage or loss of life or property resulting from any natural or manmade cause.

(3) "Division" means the Emergency Management Division referred to in ORS 401.040.

(4) "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.

(5) "Council" means the Emergency Management Advisory Council established by ORS 401.050.

(6) "Administrator" means the Administrator of the Emergency Management Division referred to in ORS 401.040.

(7) "Local organization for civil defense" means an organization created in accordance with the provisions of ORS 401.010 to 401.205 and 401.220 to 401.255 by state or local authority to perform local civil defense functions.

(8) "Political subdivision" means any city or county within this state.

(9) "Search and rescue" means the acts of searching for, rescuing or recovering, by means of ground and marine activity, any person who becomes lost, injured or is killed while out of doors. However, "search and

rescue" does not include air activity in conflict with the activities carried out by the Aeronautics Division of the Department of Transportation.

(10) "Sheriff" means the chief law enforcement officer of a county. [Amended by 1967 c 595 §1, 1969 c 80 §8, 1975 c 379 §9, 1975 c 624 §1]

401.040 Emergency Management Division; administrator; duties. (1) The Emergency Management Division is created in the Executive Department.

(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 401.205 and 401.220 to 401.255, fix their compensation and make expenditures within the appropriation therefor or from other funds made available 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. The administrator 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 State Fire Marshal, the Department of Human Resources, the Highway Division of the Department of Transportation, the Department of State Police 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 401.205 and 401.220 to 401.255 as may be prescribed by the Governor.

(d) Appoint a Search and Rescue Coordinator to administer the search and rescue function of the division. [Amended by 1963 c 528 §1, 1967 c 419 §33, 1969 c 80 §9, 1975 c 379 §10, 1975 c 624 §2, 1981 c 615 §4]

401.050 Emergency Management Advisory Council; compensation and expenses. There is created an Emergency Management Advisory Council. The council shall consist of the Adjutant General, State Fire Marshal, State Health Officer, State Highway

Engineer, Superintendent of State Police, Assistant Director for Adult and Family Services, Director of the Executive Department, Administrator of the Emergency Management Division, 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 Management 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, 1981 c 615 §5]

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 401.205 and 401.220 to 401.255. 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 401.205 and 401.220 to 401.255 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 401.205 and 401.220 to 401.255, 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 401.205 and 401.220 to 401.255. [Amended by 1963 c 528 §4, 1967 c 595 §3, 1969 c 80 §11]

401.064 Duties of Search and Rescue Coordinator. The Search and Rescue Coordinator appointed under ORS 401.040 shall:

(1) Coordinate the use of state and federal agencies capable of supporting the ground search and rescue function;

(2) Work closely with the Oregon State Sheriffs' Association in carrying out the functions of this office;

(3) Provide on scene search and rescue coordination when requested;

(4) Coordinate and process requests for the use of search and rescue volunteers and equipment;

(5) Assist in developing training and outdoor education programs;

(6) Gather statistics on search and rescue operations and submit reports on search and rescue missions;

(7) Gather and disseminate resource information on personnel, equipment and materials available for search and rescue; and

(8) Accomplish such additional duties assigned by the Administrator of the Emergency Management Division. [1975 c 379 §3]

401.066 Search and rescue activities; responsibilities of sheriff; delegation of sheriff's duties. (1) The sheriff of each county has the responsibility for search and rescue activities within his county. The duty of a sheriff under this subsection may be delegated to a qualified deputy or volunteer.

(2) The sheriff of each county shall notify the Search and Rescue Coordinator of all search and rescue missions in his county and shall request assignment of a mission number therefor.

(3) The sheriff of each county shall work with the local civil defense director in coordinating search and rescue activities in his county and in registering search and rescue workers for employe status under ORS 401.120.

(4) A sheriff may designate the local civil defense director or coordinator to perform the duties and responsibilities required under this section. [1975 c 379 §2; 1977 c 248 §3]

401.068 Search and rescue mission number. (1) The Search and Rescue Coordinator shall assign a mission number to each search and rescue mission reported to him by a sheriff under ORS 401.066.

(2) The mission number assigned under subsection (1) of this section shall be referenced for:

(a) The payment of workmen's compensation benefits for those persons injured or killed while participating in search and rescue activities; and

(b) The dispatch and request for state, federal and mutual aid resources. [1975 c 379 §4]

401.070 Mutual use of supplies and services. In carrying out the provisions of ORS 401.010 to 401.205 and 401.220 to 401.255, 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.

401.075 Restriction of access to rescue area. The sheriff of each county, the local civil defense director performing the sheriff's duties under ORS 401.066, or duly assigned military or state police personnel may restrict access to a specific search and rescue area. No unauthorized person shall then enter into a restricted area or interfere with a search and rescue mission. However, provision shall be made for reasonable access by members of the media in the performance of newsgathering and reporting. Access shall be restricted only for the period of time necessary to accomplish the search and rescue mission. [1977 c 248 §2]

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. The local director shall cooperate fully with the county sheriff in coordination of search and rescue functions in such county. 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 401.205 and 401.220 to 401.255, 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 401.205 and 401.220 to 401.255,

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.

(4) In counties where the sheriff chooses not to coordinate search and rescue functions, the local director shall have direct responsibility for the coordination of such functions.

[Amended by 1953 c 6 §4, 1967 c 595 §4, 1975 c 379 §11]

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. (1) 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.

(2) Each sheriff's search and rescue coordinator or emergency director shall have authority to request assistance of search and rescue units from other counties when needed. Such requests shall be made through the Search and Rescue Coordinator's office.

[Amended by 1975 c 379 §12]

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 Management 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 ORS 401.120 (3) 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 ORS 401.120 (3), 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 401.205 and 401.220 to 401.255 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 401.205 and 401.220 to 401.255 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 401.205 and 401.220 to 401.255, 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 401.205 and 401.220 to 401.255 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 401.205 and 401.220 to 401.255, 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]

401.195 Definitions for ORS 401.195 to 401.205 and 401.220 to 401.255. As used in ORS 401.195 to 401.205 and 401.220 to 401.255:

(1) "Civil defense volunteer" includes any person in civil defense service or search and rescue service who is a registered member of a regularly organized and accredited civil defense or search and rescue 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.

(2) "Beneficiary," "child" and "dependent" have the meaning in ORS 656.005.

(3) "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.

(4) "Search and rescue service" means the acts of searching for, rescuing or recovering, by means of ground and marine activity, any person who becomes lost, injured or is killed while out-of-doors. However, "search and rescue" does not include air activity in conflict with the activities carried out by the Aeronautics Division of the Department of Transportation. [1981 c 763 §2]

401.200 Eligibility of civil defense volunteers for benefits for injury sustained in civil defense service. (1) A civil defense volunteer may apply for and may receive benefits as provided in ORS 401.195 to 401.205 and 401.220 to 401.255 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 beneficiary is eligible for benefits under ORS 401.195 to 401.205 and 401.220 to 401.255:

(a) If the civil defense volunteer is entitled to receive benefits under the workers' compensation laws of this state or similar statutes in other states or under any disability, retirement or liability insurance program of the volunteer's 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.

(b) If the civil defense volunteer is a member of a federal civil defense agency or a civil defense agency of another state or foreign nation who is performing civil defense services in this state. [1981 c 763 §3]

401.205 Registration and qualification of organizations for civil defense. All state and local organizations for civil defense may register and qualify to come within the provisions of ORS 401.195 to 401.205 and 401.220 to 401.255. [1981 c 763 §4]

401.210 "Civil defense service" defined; service not in violation of child labor laws. Civil defense service shall not be deemed employment in violation of any laws of this state relating to labor by minors. "Civil defense service" includes all activities authorized and carried on pursuant to ORS 401.010 to 401.205 and 401.220 to 401.255, including such training as is necessary and proper to engage in such activities. [Formerly 401 820]

401.215 Record of enrollment of civil defense volunteers. Each director of a civil defense organization shall maintain a record of enrollment of civil defense volunteers who are personnel of the organization. Each record shall contain the name and address of the volunteer, the name of the employer of the volunteer, date of enrollment and authorized classification of assignment to duty, including the times of assigned duty, as well as changes in enrollment. The record forms shall be supplied by the Emergency Management 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. [Formerly 401 830]

401.220 Benefits for injury sustained in civil defense service. If a civil defense volunteer sustains an injury, benefits shall be paid in the same manner as provided for injured workers under the workers' 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 from funds specifically appropriated therefor in an amount approved by the Executive Department, Emergency Management Division, 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 \$20,000. [1981 c 763 §5]

401.225 Benefits not assignable; exempt from execution, attachment and garnishment. No benefits payable under ORS 401.195 to 401.205 and 401.220 to 401.255 are subject to assignment prior to their receipt by the person 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. [1981 c 763 §6]

401.230 Benefits as exclusive remedy. The filing of claims for benefits under ORS 401.195 to 401.205 and 401.220 to 401.255 is the exclusive remedy of a civil defense volunteer or beneficiary for injuries compensable under ORS 401.195 to 401.205 and 401.220 to 401.255 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. [1981 c 763 §7]

401.235 Claims for benefits. (1) Claims for benefits under ORS 401.195 to 401.205 and 401.220 to 401.255 shall be filed by application with the Executive Department, Emergency Management Division in the manner provided by rules of the department.

(2) The right to benefits under ORS 401.195 to 401.205 and 401.220 to 401.255 shall be barred unless written claim is filed with the division within 90 days after the injury, or, if death results therefrom, within 90 days after death. However, if death occurs more than one year after the injury, the right shall be barred unless prior written claim based on the injury has been timely filed. The requirements of this subsection may be waived by the division on the ground that, for good and sufficient reason, claim could not be filed on time. [1981 c 763 §8]

401.240 Appeal. Any question of law or fact may be appealed to the circuit court of the county where the injury occurred within 30 days from the date of mailing of the final decision by the Executive Department, Emergency Management Division, if the civil defense volunteer is dissatisfied with the final decision. [1981 c 763 §9]

401.245 Allocation of necessary funds. If funds are not available to the Executive Department, Emergency Management Division, to pay claims approved under ORS 401.195 to 401.205 and 401.220 to 401.255, the Executive Department shall request allocation of necessary funds from the Emergency Board if the unavailability occurs during the interim between sessions of the Legislative Assembly. If the unavailability occurs during a session, the Executive Department shall request the Joint Committee on Ways and Means to submit legislation necessary to provide such funds: [1981 c 763 §10]

401.250 Benefits limited by availability of funds; priority among claimants. Liability of the State of Oregon or any agency

thereof for the payment of benefits under ORS 401.195 to 401.205 and 401.220 to 401.255 is contingent upon and limited by the availability of funds. In the event that funds are not sufficient to meet the benefit claims for a given period, priority among claimants shall be determined according to the time of filing of the claim. [1981 c 763 §11]

401.255 Obtaining public or private insurance with available funds. Funds available for purposes of ORS 401.195 to 401.205 and 401.220 to 401.255 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. [1981 c 763 §12]

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 Management 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]

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 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 Management 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.

401.600 Transfer of moneys when disaster funds not sufficient. If the Governor finds that funds regularly appropriated to state and local agencies are not sufficient to cope with a particular disaster, he may, with the concurrence of the Emergency Board or Joint Ways and Means Committee, transfer and expend moneys appropriated for other purposes. [1975 c 624 §4]

401.610 Temporary housing for disaster victims; Governor's authority. Whenever the Governor has proclaimed a

disaster emergency under the laws of this state, or the President of the United States has declared an emergency or a major disaster to exist in this state, the Governor, with the concurrence of the Emergency Board or Joint Ways and Means Committee, is authorized:

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

(2) To assist any political subdivision of this state which is the locus of temporary housing for disaster victims to acquire and prepare such site to receive and utilize temporary housing units by:

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

(b) "Passing through" funds made available by any agency, public or private. [1975 c 624 §5]

401.620 Temporary housing for disaster victims; political subdivision's authority. Any political subdivision of this state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims, and to enter into arrangements necessary to prepare or equip such sites to utilize the housing units. [1975 c 624 §6]

401.630 Federal financial assistance to political subdivision; Governor's authority. Whenever, at the request of the Governor, the President of the United States has declared a major disaster to exist in this state, the Governor is authorized:

(1) Upon his determination that a political subdivision of the state will suffer a substantial loss of tax and other revenues from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the Federal Government, on behalf of the political subdivision, for a loan; and to receive and disburse the proceeds of any approved loan to any applicant political subdivision.

(2) To determine the amount needed to restore or resume its governmental functions, and to certify the same to the Federal Government, provided, however, that no application amount shall exceed 25 percent of the annual

operating budget of the applicant political subdivision for the fiscal year in which the major disaster occurs.

(3) To recommend to the Federal Government, based upon his review, the cancellation of all or any part of repayment when, in the first three full fiscal year period following the major disaster, the revenues of the political subdivision are insufficient to meet its operating expenses, including additional disaster-related expenses of a municipal operation character. [1975 c.624 §7]

401.640 Federal financial assistance to individuals or families; Governor's authority. Whenever the President of the United States, at the request of the Governor, with the concurrence of the Emergency Board or Joint Ways and Means Committee of the Legislative Assembly, has declared a major disaster to exist in this state, the Governor is authorized:

(1) Upon his determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that cannot be otherwise adequately met from other means of assistance, to accept a grant by the Federal Government to fund such financial assistance, subject to such terms and conditions as may be imposed upon the grant.

(2) To enter into an agreement with the Federal Government, or any officer or agency thereof, pledging the state to participate in the funding of the assistance authorized in subsection (1) of this section in an amount not to exceed 25 percent thereof.

(3) To make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster which cannot otherwise adequately be met from other means of assistance, which shall not exceed \$5,000 in the aggregate to an individual or family in any single major disaster declared by the President. [1975 c 624 §11]

401.650 Removal of disaster debris or wreckage; unconditional authorization required; liability for injury or damage. (1) Whenever the Governor has declared a disaster emergency to exist under the laws of this state, or the President of the United States, at the request of the Governor, has declared a major disaster or emergency to exist in this state, the Governor is authorized:

(a) Through the use of state departments or agencies, or the use of any of the state's instrumentalities, to clear or remove from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety, or public or private property.

(b) To accept funds from the Federal Government and utilize such funds to make grants to any political subdivision for the purpose of removing debris or wreckage from publicly or privately owned land or water.

(2) Authority under subsection (1) of this section shall not be exercised unless the affected political subdivision, corporation, organization, or individual shall first present an unconditional authorization for removal of such debris or wreckage from public and private property and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the state government against any claim arising from such removal.

(3) Whenever the Governor provides for clearance of debris or wreckage pursuant to subsections (1) and (2) of this section, employees of the designated state agencies or individuals appointed by the Governor are authorized to enter upon private lands or waters and perform any tasks necessary to the removal or clearance operation.

(4) Except in cases of wilful misconduct, gross negligence or bad faith, any state employe or individual appointed by the Governor authorized to perform duties necessary to the removal of debris or wreckage shall not be liable for death of or injury to persons or damage to property. [1975 c 624 §§8, 9, 10]

401.660 Governor to promulgate rules to carry out ORS 401.600 to 401.650. The Governor is authorized to make rules and regulations as are necessary to carry out the purposes of ORS 401.600 to 401.650. [1975 c 624 §12]

EMERGENCY TELEPHONE SYSTEMS

401.710 Definitions for ORS 401.710 to 401.790. As used in ORS 307.215 and 401.710 to 401.790, unless the context requires otherwise:

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

(2) "Division" means the Emergency Management Division of the Executive Department.

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

(4) "Exchange access services" means:

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

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

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

(6) "Subscriber" means a person who receives telephone exchange access services.

(7) "Provider" means a public utility which provides telephone exchange access services.

(8) "Local jurisdiction" means a group of public or private safety agencies who have agreed in writing to jointly plan an emergency telephone system. [1981 c 533 §1]

401.720 Emergency telephone systems mandatory; requirements; "911" as primary emergency number; alternate numbers required. (1) The primary emergency telephone number within the state shall be 911, but a public or private safety agency shall maintain both a separate seven-digit secondary emergency number for use by the telephone company operator and a separate seven-digit nonemergency number

(2) Every public and private safety agency in this state shall establish or participate in an emergency telephone system before January 1, 1991.

(3) No emergency telephone number other than 911 shall be published on the emergency listing page of a telephone book for any local jurisdiction where a 911 emergency telephone system has been adopted.

(4) The emergency telephone system shall include at a minimum:

(a) A 24-hour communications facility automatically accessible anywhere in the local jurisdiction service area by dialing 911;

(b) Central dispatch of public and private safety services in the 911 service area or relay or transfer of 911 calls to an appropriate public or private safety agency; and

(c) Two 911 circuits from each telephone company central office to each 24-hour communications facility for fire-fighting, police, ambulance and emergency medical services [1981 c.533 §2]

401.730 Emergency Management Division duties and powers. (1) The Emergency Management Division shall:

(a) Adopt rules in accordance with ORS 183.310 to 183.550 relating to the planning and administration of emergency telephone systems established pursuant to ORS 401.720.

(b) Upon request of a local jurisdiction, assist in planning an emergency telephone system.

(c) Report biennially to the Legislative Assembly the progress made in implementing ORS 307.215 and 401.710 to 401.790.

(2) Notwithstanding subsection (1) of this section, the division shall not require by rule or otherwise that a proposed or established emergency telephone system of a local jurisdiction meet any technical standards in addition to those provided in ORS 401.720. [1981 c 533 §3]

401.740 Submission of preliminary plans by local jurisdictions; review; cost estimates. (1) A local jurisdiction shall submit a preliminary plan to establish an emergency telephone system in accordance with ORS 401.720 by January 1, 1987, to:

(a) The Emergency Management Division;

(b) Public and private safety agencies in the local jurisdiction; and

(c) Public utilities which provide telephone service in the local jurisdiction service area.

(2) The division shall review the preliminary plan for compliance with ORS 401.720 and rules adopted pursuant to ORS 401.730 and report its approval or disapproval to the local jurisdiction within 90 days of receipt of the plan.

(3) A public utility which provides telephone service in the local jurisdiction service area shall provide the local jurisdiction within 90 days of receipt of the plan with a good faith estimate of the cost to the local jurisdiction of implementing the plan. [1981 c 533 §4]

401.750 Submission of final plans; exception; approval of plans. (1) A local jurisdiction shall submit a proposed final plan to establish an emergency telephone system pursuant to ORS 401.720 by July 1, 1988, to:

(a) The Emergency Management Division;

(b) Public and private safety agencies in the local jurisdiction; and

(c) Public utilities which provide telephone service in the local jurisdiction service area.

(2) In addition to other matters required by ORS 401.720 or rules adopted pursuant to ORS 401.730, the final plan shall include a description of all capital and recurring costs for the proposed emergency telephone system.

(3) The division shall determine whether the final plan complies with ORS 401.720 and rules adopted pursuant to ORS 401.730. If the division determines that the plan complies, it shall approve the plan. If the division determines that the plan does not comply, it shall disapprove the plan.

(4) The division shall approve or disapprove the final plan of the local jurisdiction and inform the local jurisdiction of its decision within 180 days of receipt of the plan by the division.

(5) Neither preliminary nor final plans shall be required of local jurisdictions which have 911 emergency telephone number systems which are operational on or before December 31, 1981. A description of the system shall be filed with the division in the manner prescribed by the division. [1981 c 533 §5]

401.760 Requirement for approval of final plan; division to compel compliance.

(1) The division shall not approve the preliminary or final plan of a local jurisdiction unless the plan is accompanied by written approval of the governing bodies of all public and private safety agencies included in the local jurisdiction.

(2) Notwithstanding subsection (1) of this section, if the division determines that a public or private safety agency has not established or agreed to participate in an emergency telephone system pursuant to ORS 401.720 by January 1, 1991, the division may take action as provided under ORS 401.790 to compel compliance with ORS 401.720. [1981 c 533 §6]

401.770 Pay phones to be converted to allow emergency calls without charge. A public utility which provides telephone service in an area served by an emergency telephone system established pursuant to ORS 401.720 shall convert every pay station telephone to permit dialing 911 or the telephone company operator without depositing a coin or other charge to the caller. Conversion shall be completed at or before the time the emergency telephone system is operational. [1981 c 533 §7]

401.780 Agreements among safety agencies for rendering emergency services. Public or private safety agencies which share common boundaries may enter into agreements which provide that an emergency unit dispatched by an emergency telephone system established pursuant to ORS 401.720 shall render emergency services without regard to jurisdictional boundaries. [1981 c 533 §8]

401.790 Division to assure compliance; proceedings authorized. (1) The Emergency Management Division may institute proceedings against a public or private safety agency, a local jurisdiction or other person to compel compliance with or to restrain further violation of ORS 307.215 and 401.710 to 401.790 or rules adopted pursuant to ORS 401.730.

(2) Proceedings authorized by subsection (1) of this section may be instituted without division notice, hearing or order provided in ORS 183.310 to 183.550; provided, however, that proceedings brought against a public utility shall be brought before the Public Utility Commissioner as provided by ORS chapter 756. [1981 c 533 §9]

Note: Sections 10 to 20 of chapter 533, Oregon Laws 1981, provide

Sec. 10. (1) There is imposed on the amount charged for exchange access services a tax equal to three percent of the amount charged

(2) The subscriber paying for exchange access services shall be liable for the tax imposed by this section.

(3) The amounts of tax collected by the provider shall be considered as payment by the subscriber for that amount of tax

(4) Any return made by the provider collecting the tax shall be accepted by the Department of Revenue as evidence of payments by the subscriber of amounts of tax so indicated upon the return

(5) This section shall apply to taxable years beginning on or after January 1, 1982, but before January 1, 1992

Sec. 11. The tax imposed by section 10 of this Act does not apply to

(1) Services which the state is prohibited from taxing under the Constitution or laws of the United States or the Constitution or laws of the State of Oregon

(2) Amounts paid by depositing coins in a public telephone

Sec. 12. Every provider responsible for the collection of the tax imposed by sections 10 to 16 of this Act shall keep records, render statements, make returns and comply with rules adopted by the Department of Revenue with respect to the tax. Whenever in the judgment of the department it is necessary, the department may require the provider or subscriber, by notice served upon that person by first-class mail, to make returns, render statements or keep records sufficient to show whether there is tax liability under sections 10 to 16 of this Act

Sec. 13. (1) The provider is responsible for collecting the tax under section 10 of this Act and shall file a return with the department on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due on exchange access services during the quarter. The department shall prescribe the form of the return required by this section and section 12 of this Act. The rules of the department shall require that returns be made under penalties for false swearing

(2) When a return of the tax is required under section 12 of this Act or subsection (1) of this section, the provider required to make the return shall pay the tax due to the department at the time fixed for filing the return

(3) A provider described in subsection (1) of this section may elect to pay the tax based on either of the following.

(a) The amount actually collected as payment for exchange access services during the quarter, or

(b) The net amount billed for exchange access services during the quarter. The net amount billed for exchange access services equals the gross amount billed for such services less adjustments for uncollectible accounts, refunds, incorrect billings and other appropriate adjustments.

(4) Once a provider has made an election under subsection (3) of this section, the provider may not change the method of payment and reporting unless the provider first obtains the permission of the department.

Sec. 14. (1) If the amount paid by the provider to the department under section 13 of this Act exceeds the amount of tax payable, the department shall refund the amount of the excess with interest thereon at the rate of one-half of one percent per month or fraction of a month from the date of payment of the excess until the date of the refund. No refund shall be made to a provider who fails to claim the refund within two years after the due date for filing of the return with respect to which the claim for refund relates.

(2) If a subscriber's billing for telephone services is adjusted by the provider, the provider shall also make appropriate adjustments to the amount of the subscriber's tax liability under section 10 of this Act. However, a

subscriber's exclusive remedy in a dispute involving such tax liability shall be to file a claim with the department.

Sec. 15. (1) Every provider required to collect the tax imposed by sections 10 to 16 of this Act shall be deemed to hold the same in trust for the State of Oregon and for the payment thereof to the department in the manner and at the time provided by section 13 of this Act.

(2) At any time the provider required to collect the tax fails to remit any amount deemed to be held in trust for the State of Oregon or if the subscriber fails to pay the tax, the department may enforce collection by the issuance of a distraint warrant for the collection of the delinquent amount and all penalties, interest and collection charges accrued thereon. Such warrant shall be issued, docketed and proceeded upon in the same manner and shall have the same force and effect as is prescribed with respect to warrants for the collection of delinquent income taxes

Sec. 16. Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and 316 as to the audit and examination of reports and returns, determination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences, appeals to the Director of the Department of Revenue and appeals to the Oregon Tax Court, and procedures relating thereto, shall apply to sections 10 to 16 of this Act the same as if the tax were a tax imposed upon or measured by net income. All such provisions apply to the subscriber liable for the tax and to the provider required to collect the tax. As to any amount collected and required to be remitted to the department, the tax shall be considered a tax upon the provider required to collect the tax and that provider shall be considered a taxpayer

Sec. 17. The Emergency Communications Account is established in the General Fund in the State Treasury. All moneys received by the Department of Revenue pursuant to sections 10 to 16 of this Act and interest thereon shall be paid to the State Treasurer to be held in a suspense account established under ORS 293.445. After payment of refunds, the balance of the moneys received shall be paid into the State Treasury and credited to the Emergency Communications Account. All moneys in the account are appropriated continuously to the Emergency Management Division and shall be used for the purposes described in section 18 of this Act.

Sec. 18. The Emergency Management Division shall distribute quarterly the entire amount of the moneys in the Emergency Communications Account beginning in June 1982. The division shall pay the following amounts from the account

(1) Administrative costs incurred during the preceding calendar quarter by the Department of Revenue in carrying out sections 10 to 16 of this Act. The amount paid to the department shall not exceed one percent of the amount in the account on the date of distribution, or actual expenses incurred by the department, whichever is less

(2) Administrative costs incurred during the preceding calendar quarter by the Emergency Management Division in carrying out its duties under this Act. The amount paid to the division shall not exceed three percent of the amount in the account on the date of distribution,

or actual expenses incurred by the division, whichever is less

(3) Costs incurred during the preceding calendar quarter by each public utility which provides telephone service in areas served or to be served by an emergency telephone system established pursuant to section 2 of this Act. Such payments may be made after application by the public utility to the Public Utility Commissioner for items in paragraphs (a) and (b) of this subsection and to the division for items in paragraph (c) of this subsection. The commissioner shall audit all such applications applicable to paragraphs (a) and (b) of this subsection for appropriateness of costs claimed by the public utility and shall forward the results of such audits to the Emergency Management Division. The costs payable under this section are only those incurred for

(a) Modification of central office switching and trunking equipment for emergency telephone service;

(b) Conversion of pay station telephones required by section 7 of this Act, and

(c) Collection of the tax imposed by sections 10 to 16 of this Act

(4) After all amounts under subsections (1) to (3) of this section have been paid, the balance of the account to cities on a per capita basis and to counties on a per capita basis of each county's unincorporated area, for distribution to local jurisdictions within the city or county, but each county shall receive a minimum of one-fifth of one percent of the balance of the account after the amounts under subsections (1) to (3) of this section have been paid. A local jurisdiction whose 911 service area includes more than one city or county shall be eligible to receive funds from each city or county involved. No local jurisdiction shall be eligible to receive operating funds until the jurisdiction has submitted a letter of intent signed by the affected public and private safety agencies in the area of jurisdiction. The letter of intent to participate shall be filed with the division and shall include an estimate for planning, installation, operation and improvement of the emergency telephone system. The local jurisdiction shall submit an annual revised estimate of the financial items outlined in the letter of intent until such time as the final plan for the jurisdiction has been approved by the division.

Sec. 19. The division may prepare a proposed final plan for a local jurisdiction which fails to file a proposed final plan by July 1, 1988. Costs incurred by the division shall be paid from funds which would otherwise have been available to the local jurisdiction under section 18 of this Act.

Sec. 20. (1) Except as provided in subsection (2) of this section, moneys received under subsection (4) of section 18 of this Act may be used only to pay for planning, installation, operation and improvement of an emergency telephone system

(2) Moneys not then being used may be invested by a city or county. The income from the investments shall be used for the purposes described in subsection (1) of this section

401.805 [1955 c 679 §1, 1967 c 595 §5; 1969 c 247 §3; 1975 c.379 §13, repealed by 1980 s.s. c.19 §6]

401.810 [1955 c 679 §§2, 3; repealed by 1980 s s c 19 §6]

401.815 [1955 c.679 §11, repealed by 1980 s s c 19 §6]

401.820 [1955 c 679 §5, 1980 s s c 19 §3, renumbered 401 210]

401.825 [1955 c 679 §18; 1967 c 595 §6, repealed by 1980 s.s. c 19 §6]

401.830 [1955 c 679 §20, 1967 c 595 §7; 1980 s s c.19 §4; renumbered 401 215]

401.835 [1955 c 679 §4; 1957 c 353 §1; 1973 c 466 §1, repealed by 1980 s s c 19 §6]

401.840 [1955 c 679 §9; repealed by 1980 s s c 19 §6]

401.845 [1955 c 679 §10, repealed by 1980 s s c.19 §6]

401.850 [1955 c 679 §§6, 7, 1965 c 285 §80, repealed by 1980 s s. c 19 §6]

401.855 [1955 c 679 §17, repealed by 1980 s s c.19 §6]

401.860 [1955 c 679 §8, repealed by 1980 s s c 19 §6]

401.865 [1955 c 679 §12; 1967 c 335 §48; 1967 c 637 §§9, 9a, repealed by 1980 s s c 19 §6]

401.870 [1955 c 679 §15, repealed by 1980 s s c.19 §6]

401.875 [1955 c 679 §21, repealed by 1980 s s c 19 §6]

401.880 [1955 c 679 §19; repealed by 1980 s.s c 19 §6]

401.885 [1955 c.679 §16, repealed by 1980 s s c 19 §6]

401.890 [1955 c 679 §14, repealed by 1980 s s c 19 §6]

PENALTIES

401.990 Penalties. (1) 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.

(2) Violation of ORS 401.075 is a violation of law subject to a fine of not more than \$250. [1967 c 480 §8, 1977 c 248 §4]

CHAPTERS 402 TO 405 [Reserved for expansion]