

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is centered in the narrow neck of the hourglass. The text is overlaid on the graphic.

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Report RL32404

*Tennessee Emergency Management and Homeland Security
Statutory Authorities Summarized*

Keith Bea, L. Cheryl Runyon, and Kae M. Warnock, Government and Finance Division

May 27, 2004

Abstract. This report is one of a series that profiles the emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified.

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Keith Bea
Specialist in American National Government
Government and Finance Division

L. Cheryl Runyon and Kae M. Warnock
Consultants
Government and Finance Division

Tennessee Emergency Management and Homeland Security Statutory Authorities Summarized

Summary

Tennessee's emergency management statutes are codified in the Disasters, Emergencies and Civil Defense chapter of the state code. The General Assembly has found that the population of the state is vulnerable to a range of disasters, including natural, technological, and terrorist events. The governor, General Assembly, and local officials share responsibilities such as developing disaster plans, providing aid, issuing emergency declarations, and ensuring the continuity of the government. Funds are provided through the Tennessee Emergency Management Agency, with some funds earmarked from sale of special license plates. Mutual aid is provided through three compacts. The statute prohibits price gouging after disasters occur.

This report is one of a series that profiles emergency management and homeland security statutory authorities of the 50 states, the District of Columbia, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, American Samoa, Guam, and the U.S. Virgin Islands. Each profile identifies the more significant elements of state statutes, generally as codified. Congressional readers may wish to conduct further searches for related provisions using the Internet link presented in the last section of this report. The National Conference of State Legislatures provided primary research assistance in the development of these profiles under contract to the Congressional Research Service (CRS). Summary information on all of the profiles is presented in CRS Report RL32287. This report will be updated as developments warrant.

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Tennessee Emergency Management and Homeland Security Statutory Authorities Summarized

Entities with Key Responsibilities

Governor: In an emergency the governor may assume direct operational control over all or any part of the state emergency management functions and is authorized to: delegate powers; issue, amend, or rescind executive orders, proclamations, and rules; suspend any law, rule or regulation that would hinder necessary action; use available state and local resources; direct the evacuation of stricken or threatened areas; authorize the use of force for cleanup and recovery operations; and direct state and local law enforcement officers and agencies to comply with the state emergency response program. During a state of emergency the governor may: suspend laws; use state government and political subdivision resources; transfer staff and functions from state agencies; use private property (with compensation); order evacuations; identify routes; control ingress or egress to the affected area; suspend or limit the sale of alcohol, firearms, explosives, and combustibles; provide temporary housing; and exercise control over utilities and civilian traffic. During a state of emergency the governor serves as commander-in-chief of the state national guard and all other forces available for emergency duty. To greatest extent possible the governor must, by prior arrangement in executive orders or rules, delegate or assign command authority. The governor's authority, however, is not restricted by emergency orders (Tenn. Code Ann. §58- 2-107(a),(d)-(j)).

Tennessee Emergency Management Agency (TEMA): TEMA officials must create and maintain a comprehensive statewide emergency management program integrated into and coordinated with the federal government. The director of TEMA reports to the adjutant general and coordinates activities with the federal government and state agencies and departments, in addition to units of local governments and private agencies. The powers the agency may exercise include the following: promulgate standards for county plans; make recommendations to the General Assembly for preparedness, prevention and mitigation measures; determine supply and equipment needs; institute statewide public awareness programs; coordinate state, federal, local emergency management activities; survey industries, resources and facilities; and prepare executive orders. On the governor's authorization, TEMA officials make or rescind orders and rules for emergency management purposes and prepares and distributes catalogs of federal, state and private assistance programs to state and local officials (Tenn. Code Ann. §§ 58-2-103, 58-2-104, 58-2-106, 58-2-113, 58-2-114, 58-2-118).

Emergency Services Coordinators: Executive branch department heads must select staff to coordinate with TEMA on preparedness issues and ensure that state agencies have disaster plans (Tenn. Code. Ann. §58-2-108).

Public Health Emergency Advisory Committee: The committee must recommend a timeline to the governor to develop and implement a comprehensive plan for bioterrorism emergency preparation and response. Also, the committee must assist the governor and the General Assembly in developing, implementing and evaluating a comprehensive statewide plan for emergency preparedness and response, in addition to recommending statutory changes (Tenn. Code Ann. § 68-56-105).

Hospital biopreparedness planning committee: The committee provides recommendations to the governor about regional hospital plans as well as emergency distribution and management plans. The committee also receives, evaluates, and dispenses reports, among other duties (Tenn. Code Ann. §68-56-108).

Political subdivisions: Each county must establish and maintain an emergency management agency. Municipalities are authorized and encouraged to create municipal emergency management programs. Political subdivisions may appropriate and spend funds for emergency management, employ and assign staff as primary emergency management forces, establish emergency operations centers, and request state assistance or mutual aid. Local emergency management agencies serve their respective counties, and local programs must comply with county programs. Local agencies are authorized to join interjurisdictional emergency management agreements through an executive order issued by the governor or by rule. Subdivisions are directed to use the services, equipment, supplies, personnel, and facilities of agencies and political subdivisions during an emergency. The directors of local agencies are appointed by the local governing body (Tenn. Code Ann. §§58-2-110, 58-2-114).

Preparedness

The Tennessee Emergency Management Plan (TEMP) must include evacuation, shelter, and post disaster response and recovery components, as well as procedures for activating the plan. Further TEMP requirements include: a description of the chain of command; a comprehensive communications plan; a means to monitor mutual aid agreements; a comprehensive statewide medical care plan; and provisions for urban search and rescue teams, among other elements (Tenn. Code Ann. §58-2-106).

The statute notes the intent of the General Assembly is to provide for the coordination and funding of emergency preparedness, response, recovery, and mitigation activities among and between state agencies, as well as with similar agencies in other states, local and federal governments, interstate organizations, and the private sector (Tenn. Code Ann. §58-2-102 (c)).

The statute sets forth requirements for TEMA to develop and test radiological emergency preparedness plans in conjunction with appropriate counties and operators of nuclear power plants (Tenn. Code Ann. §58-2-123).

The statute established a framework for the preparation of a response plan for public health emergencies that arise from acts of bioterrorism (Tenn. Code Ann. §68-56-102).

Political subdivisions are authorized to establish primary and secondary emergency operations centers. They are also authorized to provide for the continuity of government and the direction and control of emergency operations (Tenn. Code Ann. §58-22-110 (3) (A) (iii)).

Accidents involving hazardous materials must be reported to TEMA and appropriate local officials as soon as possible following an incident (Tenn. Code Ann. 58-2-601 et seq.).

Declaration Procedures

The governor is authorized to declare a state of emergency or issue a disaster declaration by executive order or through activation of the TEMP. A state of emergency continues for a maximum period of 60 days until the governor terminates it by executive order or proclamation, or renews the declaration. All such orders must indicate the level of disaster or emergency and identify the threatened areas, enumerate the conditions for termination, and must be disseminated to the general public and filed with the state department and chief executive officer of each county. Executive orders or proclamations activate emergency mitigation, response, and recovery aspects of state, local and interjurisdictional emergency management plans for political subdivisions. Among other effects, such an order or proclamation authorizes the deployment and use of “forces” to distribute supplies, equipment, and materials (Tenn. Code Ann. §58-2-107).

A local state of emergency declaration remains in force for seven days, and may be extended by officials of the political subdivision in seven-day increments. Subdivisions are authorized to waive laws and “formalities” regarding acquiring equipment, contracting, and appropriating funds during an emergency (Tenn. Code Ann. §58-2-110(3)(A)(v)).

The chief administrative officer of a municipality may proclaim in writing that a civil emergency exists. A copy of the proclamation must be filed with the clerk of the municipality or with the recorder. During a civil emergency, the chief administrative officer may order a general curfew for a maximum period of 15 days and take actions such as closing retail liquor stores, bars, gas stations and preventing the sale of firearms (Tenn. Code Ann. §§ 38-9-102 to 104).

Types of Assistance

TEMA is authorized to provide support from “available personnel, equipment, and other resources” to reinforce emergency management agencies in areas stricken by emergencies. Further, TEMA is permitted to provide the same types of assistance in other states “upon the conditions specified” in statute, and is authorized to compensate staff (Tenn. Code Ann. §58-2-113).

The governor, the director of TEMA, and officials of political subdivisions may use the services, equipment, supplies, personnel, and facilities of existing agencies and political subdivisions during an emergency (Tenn. Code Ann. §58-2-114).

Mutual Aid

The governor is authorized to enter into civil defense, disaster, and emergency management assistance compacts with contiguous states to provide mutual aid among contracting states to meet any emergency or disaster from enemy attack, sabotage or other hostile action (Tenn. Code Ann. § 58-2-401).

The Southern Regional Emergency Management Assistance Compact is codified (Tenn. Code Ann. §58-2-403).

The Interstate Earthquake Compact of 1988 is codified (Tenn. Code Ann. § 58-2-701).

The Southeast Interstate Forest Fire Protection Compact is codified (Tenn. Code Ann. §11-4-501 et seq).

The Local Government Emergency Assistance Act provides that personnel sent into another jurisdiction to render assistance retain the same rights and immunities they hold in their base jurisdiction (Tenn. Code Ann. § 58-2-111).

Political subdivisions' governing bodies are to develop and enter into mutual aid agreements for reciprocal emergency aid and assistance in case of emergencies. It is the duty of each local emergency management agency to render assistance according to such agreements (Tenn. Code. Ann. §58-2-112).

Incorporated cities and towns are authorized to enter into fire-fighting mutual aid agreements with each other as well as with counties, private fire departments, utility districts and industrial fire departments. Such mutual aid provided to other jurisdictions is supplemental to the general authority of the unit of government (Tenn. Code Ann. §6-54-601, 602).

Upon the request of two or more adjoining counties, or at the governor's discretion by executive order or rule, interjurisdictional areas responsible to plan for, prevent, mitigate, or respond to emergencies may be established. The decision must be based on factors (such as sparse population and limited financial resources) indicative of the difficulty of establishing an effective emergency prevention, mitigation, preparedness, response and recovery system on a nonjurisdictional basis (Tenn. Code. Ann. §58-2-110 (3) (B)).

The governor may authorize a state department to: lend or lease real or personal state property to federal emergency management agencies; assist political subdivisions with contracts or leases for real or personal state property; and temporarily transfer state employees to political subdivisions. Local governing bodies may contract with the state for resources (Tenn. Code Ann. §58-2-117).

Funding

The statute states that it is the intent of the General Assembly that funds to prepare for and to meet emergencies be always available. The General Assembly annually funds TEMA. The governor may make funds available by transferring and expending moneys appropriated for other purposes or out of any unappropriated surplus funds. Further, the governor may apply for, administer, and use grants, gifts, and other payments. The governor, or the designated representative, may accept a gift, grant, or loan from a person or corporation (Tenn. Code Ann. §58-2-109).

Funds produced from the sale of new specialty license plates, “United for America,” are to be allocated to TEMA for purposes of disaster planning and emergency preparedness. The receipt of such funds cannot result in any appropriations reduction otherwise made to the agency (Tenn. Code Ann. §55-4-279).

Each political subdivision has the authority to: appropriate and expend funds; obtain and distribute equipment, materials, and supplies for emergency purposes; and provide for the health and safety of persons and property, including emergency assistance to victims (Tenn. Code Ann. §58-2-110 (3)).

Each local emergency planning committee (LEPC) may collect an annual fee of \$100 from industries to pay for annual exercises, public education, and printing the Hazardous Materials Emergency Response Plan (Tenn. Code Ann. §58-2-110 (4)).

Hazard Mitigation

The governor is directed to consider mitigation measures and work with state agencies to identify mitigation measures. TEMA and other state officials must study vulnerabilities, and are authorized to make recommendations to reduce or prevent hazards in areas “particularly susceptible” to catastrophes. The governor is authorized to request legislative action if political subdivisions or state agencies do not take action (Tenn. Code Ann. §58-2-116).

Continuity of Government Operations

If an emergency from enemy attack prevents units of local government from conducting government affairs at their regular location, the governing body of each political subdivision may meet within or without territorial limits on the call of the presiding officer or two members of the governing body. They must also designate by ordinance or resolution the temporary government location. The governing body may exercise executive, legislative, judicial powers and functions and does not have to comply with “time consuming procedures and formalities.” All acts under such conditions are valid and binding (Tenn. Code Ann. §7-51-101 et seq).

Other

The governor must take steps to protect the public from price gouging during a declared state of emergency (Tenn. Code Ann. §47-18-510s1 et seq).

Persons who volunteer the use of property for purposes of shelter are not liable for death or injury to persons or damage to property (Tenn. Code Ann. §58-2-121).

Fire fighters have immunity from liability while providing mutual aid (Tenn. Code Ann. §6-54-603).

Compensation must be provided for property commandeered or used in an emergency (Tenn. Code Ann. §58-2-115).

A state employee who serves as an American Red Cross volunteer can use up to 15 days leave per year to participate in disaster response, with the approval of his or her appointing authority (Tenn. Code Ann. §8-50-810).

State employees are not to be compensated for the loss of personal property when such loss results from “an act of God or natural disaster” (Tenn. Code Ann. §9-8-111(b)(1)).

Architects or engineers who volunteer to provide a building or structural inspection service within a 90 day period after an earthquake at the request of a public safety officer or building inspector are not liable for negligence for personal injury or property damage (Tenn. Code Ann. § 62-2-109).

The state Terrorism Prevention and Response Act of 2002 provides that the intentional release of chemical or biological material constitutes a use of weapons of mass destruction (Tenn. Code Ann. §39-13-802 et seq).

The statute requires that records on structural or operational vulnerability of a utility service provider be confidential and not open to the public in order to prevent disruption in services or contingency plans for responding to or preventing a violent incident, school or business violence, a weapons of mass destruction threat or a terrorist incident (Tenn. Code Ann. §10-7-504(21)(A)).

Key Terms

Table 1. Key Emergency Management and Homeland Security Terms Defined in Tennessee Statutes, with Citations

| Terms | Citations |
|---|----------------------------------|
| Biological warfare agents | Tenn. Code Ann. § 39-13-803 (2) |
| Bioterrorism | Tenn. Code Ann. § 68-56-103 (1) |
| Chemical warfare agents | Tenn. Code Ann. § 39-13-803 (3) |
| Civil emergency | Tenn. Code Ann. §38-9-101 (2) |
| Disaster | Tenn. Code Ann. § 58-2-101 (4) |
| Emergency | Tenn. Code Ann. § 58-2-101 (6) |
| Emergency management | Tenn. Code Ann. § 58-2-101 (7) |
| Emergency management agency (EMA) | Tenn. Code Ann. § 58-2-101 (5) |
| Emergency management preparedness and assistance trust fund | Tenn. Code Ann. § 58-2-101 (8) |
| Emergency services coordinator | Tenn. Code Ann. § 58-2-101 (9) |
| Local emergency management agency | Tenn. Code Ann. § 58-2-101 (14) |
| Manmade emergency | Tenn. Code Ann. § 58-2-101 (15) |
| Mobile reserve unit | Tenn. Code Ann. §58-2-116 |
| Natural emergency | Tenn. Code Ann. § 58-2-101 (17) |
| Nuclear or radiological agents | Tenn. Code Ann. § 39-13-803 (5) |
| Public health emergency | Tenn. Code Ann. § 68-56-103 (2) |
| State coordinating officer (SCO) | Tenn. Code Ann. § 58-2-101 (20) |
| State of emergency | Tenn. Code Ann. §47-18-5102 (11) |
| Technological emergency | Tenn. Code Ann. § 58-2-101 (21) |
| Weapon of mass destruction | Tenn. Code Ann. § 39-13-803 (6) |
| Weaponized biological or biologic warfare agents | Tenn. Code Ann. § 39-13-803 (9) |

For Further Research

The citations noted above and other elements of the state code for Tennessee may be searched at: [<http://198.187.128.12/tennessee/lpext.dll?f=templates&fn=fs-main.htm&2.0>].