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Alaska Emergency Management and Homeland Security Statutory Authorities Summarized

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Summary

Alaska's emergency management statute clarifies and strengthens the roles of the governor, state agencies, and local governments in prevention and preparation for response and recovery from a disaster. The statute also addresses the prevention of disasters caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use. State and local emergency management plans are tied to environmental plans to create a coordinated response to disasters. Other provisions reside in the civil defense statute which expands gubernatorial and emergency powers and mutual aid agreements to respond to an enemy attack.

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, and three territories (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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Alaska Emergency Management and Homeland Security Statutory Authorities Summarized

Entities with Key Responsibilities

Governor: The governor is responsible for meeting the dangers presented by disasters and, accordingly, may issue, amend or rescind orders, proclamations, and regulations (Alaska Stat. §26.23.020(a),(b)). The governor may also suspend provisions of any statute, use available resources, transfer personnel or functions of departments, commandeer property, compel relocation, control ingress and egress within a disaster area, make provisions for temporary emergency housing, and allocate food, water, fuel or clothing (Alaska Stat. §26.23.020(g)(1)-(10)). The statute authorizes the governor to lease or lend real or personal state property to the President of the United States and the armed forces, or to any district of the state (Alaska Stat. § 26.20.110). The governor serves as commander-in-chief of the armed forces of the state and may call out these forces to execute laws, suppress or prevent insurrection or lawless violence, or repel invasion (Alaska Constitution, Article 3, Section 3.19). The governor also serves as commander-in-chief of the militia and all other available state forces, and may delegate or assign command authority during a disaster emergency (Alaska Stat. §26.23.020 (c),(e),(f)). The governor may direct the creation of an interjurisdictional relationship, a joint disaster emergency plan, mutual aid, or an area organization for emergency planning and services and may establish “an international relationship, mutual aid, or an area organization for disaster” if an area lies partly within the state and includes territory in a foreign jurisdiction (Alaska Stat. §26.23.070).

Alaska Division of Emergency Services: The Division is created in the Department of Military and Veterans’ Affairs (Alaska Stat. §26.23.030). The mission of the division is to prepare and maintain the state emergency plan. Division officials determine requirements for and procure food, clothing, and other necessities in the event of a disaster emergency and pre-position supplies, medicines, materials, and equipment. The Division adopts standards and requirements for local and interjurisdictional disaster plans and prepares gubernatorial orders, proclamations, and regulations as necessary. The Division is also authorized to award grants for forming and funding local emergency planning committees (Alaska Stat. §26.23.040).

Department of Military and Veterans’ Affairs: The Department may assume direct operational control over all or any part of civil defense functions and may: issue, adopt, amend, and rescind orders and regulations; prepare a comprehensive civil defense plan; ascertain requirements for food, clothing or other necessities of life; and use and employ any property, services, and resources (Alaska Stat.

§26.20.020). Also, the Department may control traffic for evacuation over public highways and streets of people, troops, or vehicles and material (Alaska Stat. §26.20.100). The adjutant general serves as liaison between the state and the Federal Emergency Management Agency (Alaska Stat. §26.05.160).

Local organizations for civil defense: Each district establishes a local organization for civil defense. Each local director receives and expends funds, makes contracts, obtains and distributes equipment and supplies, provides for the staffing of both paid and volunteer workers and for the health and safety of persons and property, including emergency assistance to the victims of any disaster resulting from an enemy attack (Alaska Stat. §26.20.060). Local directors may adopt, amend, and rescind orders and regulations necessary for civil defense (Alaska Stat. §26.20.120).

Response corps and emergency response depots: The Department of Military and Veterans' Affairs may establish a response corps, available on short notice, consisting of volunteers trained in techniques for emergency and disaster response. Members of the corps are entitled to per diem and expenses for training and days spent in service to the state. The Department may maintain emergency response depots in areas identified for that purpose in the state emergency plan (Alaska Stat. §26.23.045).

Local and interjurisdictional disaster services: Each political subdivision is responsible for disaster preparedness and the coordination of response efforts, or may establish an interjurisdictional planning and service area. The chief executive officer for each subdivision reports to the Division of Emergency Services on disaster planning, and prepares local or interjurisdictional disaster emergency plans consistent with regional master plans relating to release of a hazardous substance (Alaska Stat. §26.23.060).

Alaska Seismic Hazards Safety Commission: The Commission is established in the Department of Natural Resources to advise on the coordination of disaster preparedness and seismic hazard mitigation activities; review practices for recovery and reconstruction after a major earthquake; and recommend improvements to mitigate losses from future events (Alaska Stat. §44.37.065-.069).

Alaska State Emergency Response Commission: Established within the Department of Military and Veterans' Affairs, the Commission implements provisions of the federal Emergency Planning and Community Right-to-Know Act, facilitates and reviews emergency response plans, and establishes local planning committees (Alaska Stat. §26.23.071). The Commission sets boundaries of local emergency planning districts and appoints members of local emergency planning committees (Alaska Stat. §26.23.073). Also, the Commission reviews and makes recommendations regarding local and state emergency plans (Alaska Stat. §26.23.077).

Local Emergency Planning Committees: Each committee must prepare a local emergency plan and evaluate resources needed to carry out the plan and advise political subdivisions on emergency planning, training, and response (Alaska Stat. 26.23.073).

Preparedness

The state emergency plan may include provisions regarding: prevention and mitigation, effective response, emergency relief, identification of areas of vulnerability, land use controls, and assisting local officials in developing emergency plans. The plan may provide authorization for the construction of temporary works for disaster prevention or mitigation and the organization of manpower and chains of command (Alaska Stat. §26.23.040(a-d)). The plan must be substantially equivalent to local, state and regional plans prepared by the Department of Environmental Conservation relating to the release of a hazardous substance, and must include an incident command system (Alaska Stat. §26.23.070(d)).

Emergency plans for facilities containing or transporting hazardous substances must include the identification of facilities, methods of response, and other information (Alaska Stat. §26.23.075).

The governor may create mobile support units as necessary to reinforce civil defense in stricken areas and may appoint a commander for each unit (Alaska Stat. §26.20.080).

See also various sections in “Entities with Key Responsibilities.”

Declaration Procedures

The governor is authorized to declare “a condition of disaster emergency,” which remains in effect until the danger has passed or the disaster been managed so the emergency no longer exists, but not longer than 30 days unless extended by the legislature by a concurrent resolution. The proclamation must state whether the governor proposes to expend state funds to respond to the disaster, activates disaster response and recovery aspects, and constitutes authority for the deployment and use of any force, or any supplies, equipment, materials. The governor may terminate the emergency by proclamation (Alaska Stat. §26.23.020 (c),(e)).

A local disaster emergency may only be declared by the principal executive officer of political subdivision. A declaration activates the response and recovery aspects of local or interjurisdictional disaster emergency plans and authorizes furnishing of aid and assistance. A representative of an interjurisdictional disaster planning and service area may not declare a local disaster emergency unless expressly authorized by the principal executive officer of each political subdivision in the emergency area (Alaska Stat. §26.23.140).

Concurrently with the proclamation, the governor must deliver a comprehensive financing plan to the presiding officers and chairs of the finance committees in each house of the legislature. If the declaration occurs during a regular or special legislative session, “actions taken by the governor under this chapter after the close of the session that are not ratified by law adopted during that session are void.” The legislature may terminate a disaster emergency at any time. (Alaska Stat. §26.23.025 (a)-(c))

Types of Assistance

The statute authorizes the state to accept services, gifts, grants, and loans by the federal government or others for services, equipment, supplies, materials or funds for civil defense purposes (Alaska Stat. §26.20.150).

A municipality may provide for the assessment or reassessment and reduction of taxes for property destroyed, damaged, or otherwise reduced in value as a result of a natural disaster. A reduction of taxes may be made only on losses in excess of \$1,000 for the remainder of the year following the disaster (Alaska Stat. §29.45.230).

The director of the division of lands may make grants of state land to persons and municipal corporations to replace land which is rendered unusable by a natural disaster for the purposes for which it was used before the natural disaster (Alaska Stat. §38.05.870).

The governor may establish temporary housing for disaster victims or assist political subdivisions seeking to acquire sites, and may temporarily suspend or modify any public health, safety, zoning, transportation, or other requirement of law, for a period of not to exceed 60 days, when essential to provide temporary housing for victims. The statute authorizes the use of temporary housing units from any federal agency, and “pass through” funds (Alaska Stat. §26.23.100).

A municipality that is wholly or partially in a declared disaster area may participate in and provide for housing, urban renewal, and redevelopment in the same manner as a home rule city. Such participation must be initiated not more than five years after the date of declaration of a natural disaster, and may be extended for an additional period of not more than three years (Alaska Stat. §29.35.040).

The governor may direct that debris and wreckage that may threaten public health, safety, or property be cleared from publicly or privately owned land or water, and may apply for funds from the federal government for that purpose. Affected political subdivisions, corporations, organizations, or individuals must unconditionally authorize the work and, in the case of private property, must first agree to indemnify the state government against claims arising from the removal (Alaska Stat. §26.23.110).

Mutual Aid

The *Emergency Management Assistance Compact* is codified (Alaska Stat. §26.23.135).

The National Guard Mutual Assistance Compact is codified (Alaska Stat. Chapter 26.25. et. seq.).

The governor may enter into reciprocal aid agreements with other states and with the federal government, or a province of a foreign country. Such agreements are limited to furnishing or exchanging food, clothing, medicine, and other supplies,

engineering services, emergency housing, and police and other emergency services (Alaska Stat. §26.20.030).

The director of each local organization for civil defense may develop mutual-aid arrangements with other public and private agencies in the state for reciprocal civil defense aid and assistance (Alaska Stat. §26.20.050).

Political subdivisions are encouraged and assisted by the Division of Emergency Services to make arrangements for mutual aid in coping with disasters. The governor may require an interjurisdictional agreement where political subdivisions in an area have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis (Alaska Stat. §26.23.180).

Under prescribed circumstances, the governor may negotiate a special agreement with a jurisdiction that has not enacted the Emergency Management Assistance Compact (Alaska Stat. 26.23.070(c))

The adoption of mutual fire aid agreements is authorized. (Alaska Stat. §18.70.150)

See also “Entities with Key Responsibilities,” *Governor*.

Funding

The statute creates a disaster relief fund in the Office of the Governor, with the Department of Revenue as custodian of the fund. The statute authorizes the governor to expend the fund’s assets to implement relevant provisions of law, and alleviate the effects of a disaster or an incident, by making grants or loans to persons or political subdivisions (Alaska Stat. §26.23.300).

The governor may use money from the oil and hazardous substance release response account to respond to a declared disaster emergency related to an oil or hazardous substance discharge (Alaska Stat. §26.23.020(g)(11)). Up to \$500,000 of state funds may be expended per incident per fiscal year for prevention or response, and more may be expended with legislative approval or under certain conditions. If the governor declares a disaster emergency, up to \$1,000,000 of state funds may be expended per fiscal year, including assets of the disaster relief fund. More may be expended with legislative approval. If the disaster is a fire, the governor may expend state funds as necessary to save lives, protect property and public health and safety (Alaska Stat. §26.23.020 (h)-(k)).

The first recourse for funds needed to cope with a disaster is to regular appropriations to state and local agencies. The second recourse is the disaster relief fund or, where applicable, the oil and hazardous substance release prevention and response fund. If money available from these sources is insufficient, and if other sources are not available or are insufficient, the governor may transfer and spend money appropriated for other purposes or borrow money for a term not to exceed two years (Alaska Stat. §26.23.050).

During a presidentially declared disaster, the governor may accept federal aid to meet the needs of affected individuals or families, and may pledge the state to provide not more than 25% of the assistance. The statute authorizes acceptance of an advance on the state's share from federal funds to be repaid when the state is able to do so. The governor makes financial grants to individuals or families, and sets separate limits for presidentially declared disasters and disasters declared by the governor (Alaska Stat. §26.23.090).

The governor may apply to the federal government for aid on behalf of a local government, or upon a demonstrated need for financial assistance, and may recommend the cancellation of all or any part of repayment when a local government is unable to meet operating expenses (Alaska Stat. §26.23.080).

Hazard Mitigation

The governor must consider steps that could be taken to prevent or reduce the harmful consequences of disasters. State agencies, including those charged with flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, environmental quality, public works, land use and land use planning, and construction standards, are required to make studies of disaster-prevention-related matters. The governor makes recommendations to agencies and the legislature. The Division of Emergency Services is authorized to propose changes to zoning and land use regulations and statutes where appropriate (Alaska Stat. §26.23.150).

See "Entities with Key Responsibilities," *Alaska Seismic Hazards Safety Commission*

Continuity of Government Operations

The statute authorizes the governor to declare an emergency temporary location or locations not normally considered military target sites for the seat of government due to an emergency resulting from enemy attack or imminent attack. The emergency temporary location remains as the seat of government until the governor terminates the emergency. All acts performed at the temporary location are valid and binding (Alaska Stat. §44.99.007-008).

The statute requires legislation to provide for succession to the office of governor and for an acting governor in the event that the lieutenant governor is unable to succeed to the office or act as governor (Alaska Constitution, Article 3, Section 3.13).

The governor must appoint a person qualified to be governor as successor to the lieutenant governor, who must be confirmed by legislature. The statute provides for succession to the offices of governor and lieutenant governor until a special election, and addresses filling simultaneous vacancies (Alaska Stat. §44.19.040-46).

Other

District employees who provide outside aid have same powers, duties, rights, privileges, and immunities as if they were performing their duties in the district in which they are normally employed (Alaska Stat. §26.20.070).

A person owning or controlling real estate who voluntarily and without compensation permits use of property for the purpose of sheltering persons during an actual or practice attack shall be immune from suit for negligence arising out of the construction or maintenance of the property (Alaska Stat. §26.20.145).

The statute prohibits the employment in a civil defense organization of persons who advocate a change by force or violence in the constitutional form of the government of the United States or the state or who have been convicted of or are under indictment for a subversive act against the United States. The statute requires that civil defense employees take a loyalty oath of office (Alaska Stat. §26.20.160).

The statute gives mobile support unit personnel the same powers, duties, rights, privileges, and immunities as they are entitled to in their normal employ in a state or district and provides compensation, rights and immunities to others. State to reimburse for use of mobile support unit of another state (Alaska Stat. §26.20.080).

Key Terms

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

Terms	Citations
Civil defense	Alaska Stat. § 26.20.200 (1)
Disaster	Alaska Stat. § 26.23.900 (2)
Disaster preparedness	Alaska Stat. § 44.19.639 (2)
Disaster emergency	Alaska Stat. § 26.23.900 (3)
Emergency	Alaska Stat. § 26.23.900 (4)
Hazardous substance	Alaska Stat. § 26.23.900 (5)
Local Emergency Planning Committees	Alaska Stat. § 26.23.073 (d)
Major disaster	Alaska Stat. § 26.23.900 (6)
Seismic hazard mitigation/mitigation	Alaska Stat. § 44.19.639 (3)
Temporary housing	Alaska Stat. § 26.23.900 (8)
Unorganized militia	Alaska Stat. § 26.23.900 (9)

For Further Research

The citations noted above and other elements of the state code for Alaska may be searched at: [<http://www.legis.state.ak.us/folhome.htm>].