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California Emergency Management and Homeland Security Statutory Authorities Summarized

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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

California Emergency Management and Homeland Security Statutory Authorities Summarized

Summary

The key emergency management and homeland security statutes for the state of California include the Emergency Services Act, the Disaster Recovery Reconstruction Act and the Disaster Assistance Act. These statutes allow the governor to declare an emergency, provide funds to small businesses and residents for disaster recovery, plan for and mitigate the effects of disasters, and establish a process for the continuation of government should gubernatorial or legislative vacancies occur as the result of a disaster. Although California is not a member of the Emergency Management Assistance Compact the legislature has enacted intrastate mutual aid agreements; the governor has authority to enter into interstate agreements. Other statutes address issues such as disaster dog teams, state employees volunteering for emergency service and agricultural terrorism.

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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California Emergency Management and Homeland Security Statutory Authorities Summarized

Entities with Key Responsibilities

Governor: The powers given to the governor include the coordination of the state emergency plan and programs to mitigate the effects of an emergency, and authority to suspend statutes, commandeer private property and personnel, and cooperate with federal agencies (Cal. Gov't Code §8565 *et seq.*). The governor has complete authority over agencies and the right to exercise police power (Cal. Gov't Code §8627 *et seq.*). Also, the governor may make expenditures "from any fund legally available" to deal with emergencies and accept services, equipment, and supplies (Cal. Gov't Code §8645 *et seq.*). Additional powers of the governor in a state of emergency are enumerated in the statute (Cal. Gov't Code §8654). During a state of war emergency the governor exercises complete authority over all agencies and the right to designate all police powers in designated areas. (Cal. Gov't Code §8620)

Office of Emergency Services (OES): The OES, located in the Office of the Governor, which includes the State Civil Defense Agency, coordinates state agencies' emergency activities during an emergency (Cal. Gov't Code §8585 *et seq.*).

California Emergency Council: The council, which includes the governor, lieutenant governor, attorney general, representatives from city and county governments, firefighters and law enforcement plus the Senate president pro tempore and speaker of the Assembly, advises the governor during emergencies (Cal. Gov't Code §8575 *et seq.*).

Emergency Response Team for State Operations: The team improves state agencies' abilities to resume operations after a business interruption (Cal. Gov't Code §8549.10 *et seq.*).

Emergency Response Training Advisory Committee: The committee recommends criteria for the curriculum related to training for terrorism awareness (Cal. Gov't Code §8588.10).

Emergency Medical Services (EMS) Authority: The authority assesses each EMS area to determine the need for additional emergency medical services and the effectiveness of emergency medical services (Cal. Health and Safety Code §1797.102). The authority responds to any medical disaster by mobilizing and coordinating emergency medical services and mutual aid resources (Cal. Health and

Safety Code §1797.150). Also, the authority assists OES in preparation of the emergency medical services component of state emergency plan (Cal. Health and Safety Code §1797.151).

California Specialized Training Institute: The institute, part of OES, assists in training state agencies, cities and counties in planning and preparation for disasters (Cal. Gov't Code §8588.3 (b)).

State Strategic Committee on Terrorism (SSCOT): The committee establishes and prioritizes recommendations for the prevention of and response to terrorist attacks and evaluates the potential of a terrorist attack and California's readiness to respond (Exec. Order D-47-01, Oct. 10, 2001).

Other state agencies and employees: As directed by the governor, other agencies must render assistance during a state of emergency (Cal. Gov't Code §8595 *et seq.*).

Local disaster councils: Counties and cities may create councils to develop plans to meet any local emergency, state of emergency, or state of war emergency (Cal. Gov't Code §8610). The powers of local officials are subordinate to those of the governor (Cal. Gov't Code §8614).

Seismic Safety Commission: The commission is required to establish an urban search and rescue emergency response advisory committee (Cal. Gov't Code §8601).

Public Safety Radio Strategic Planning Committee: The committee has primary responsibility for developing and implementing the statewide integrated public safety communications systems that facilitate interoperability and shared uses of public safety spectrum (Cal. Gov't Code §8592 *et seq.*).

Chemical Emergency Planning and Response Commission: The commission serves as the state emergency response commission pursuant to the federal Emergency Planning and Community Right-to-Know Act (Cal. Health and Safety Code §25503.1).

Preparedness

See above, "Entities with Key Responsibilities," *California Specialized Training Institute*.

OES and other key agencies are required to establish a standardized emergency management system for use by all emergency response agencies (Cal. Gov't Code §8607).

OES is required to study whether television and radio stations can transmit emergency information to the public 24 hours per day (2002 Cal. Acts, Chaps. 855).

OES is required to procure mobile communications translators to allow mutual aid emergency response agencies to communicate while operating on incompatible frequencies (Cal. Gov't Code §8588.7).

Federal homeland security funds (\$15 million maximum) may be allocated for disbursement to state and local government public safety agencies to purchase or operate radio equipment that provides interoperability among federal, state, and local radio systems. Each receiving agency must provide an annual report to the legislature on progress made on procuring and operating such equipment (Cal. Gov't Code §8592.9).

Declaration Procedures

The statute established three conditions or degrees of emergency—state of war, state of emergency, and local emergency (Cal. Gov't Code §8558).

When an emergency exceeds seven days, the governor calls an Emergency Council meeting; the statute specifies the conditions under which emergency powers terminate (Cal. Gov't Code §8624).

Conditions under which a state of war emergency terminates are specified (Cal. Gov't Code §8624 (b)).

The governor is authorized to issue a declaration of state of emergency (Cal. Gov't Code §8625 *et seq.*).

The statute specifies requirements for a proclamation that initiates and terminates a state of emergency (Cal. Gov't Code §§8625, 8629).

Types of Assistance

The small business disaster recovery loan loss reserve account has been created to prevent business insolvencies and employment loss after disasters declared by president or governor (Cal. Corporation Code §14030.1).

Loan guarantees are authorized for interim loans to persons, especially small businesses, affected by natural disasters, terrorist acts, or states of emergency in affected areas to ensure continuation of operations pending federal disaster assistance. The maximum loan guarantee is \$200,000. The statute also authorizes assistance to local agencies for: personnel and equipment costs, supplies, materials and emergency workers' wages; the repair, restoration, reconstruction, or replacement of local agency facilities damaged by natural disasters; matching fund assistance for cost-sharing under federal assistance programs; administrative costs; site preparation costs for mobile homes, manufactured housing provided by FEMA as federal temporary housing; and, the state share of costs for projects and mitigation measures (Cal. Gov't Code §8680 *et seq.*).

The statute provides conformity of the state personal income tax law to the federal Victims of Terrorism Tax Relief Act of 2001, and provides conformity to the same Act excluding certain items from gross income (Cal. Rev. and Tax. Code §§17131, 17132.5, 17731, 18572, 19559).

Mutual Aid

The governor is authorized to divide the state into mutual aid regions (Cal. Gov't Code §8600).

The statute provides that duly approved emergency plans satisfy requirements of the Master Mutual Aid Agreement (Cal. Gov't Code §8615).

The governor has the authority to enter into reciprocal aid equipment compacts and mutual aid plans with other states or the federal government (Cal. Gov't Code §8619).

State agencies are authorized to provide mutual aid (personnel, equipment, resources) to political subdivisions during local emergencies (Cal. Gov't Code §8632).

The OES and the California Highway Patrol are required to establish a statewide plan for the delivery of hazardous material mutual aid (Cal. Gov't Code §8589.2).

Fire protection districts are authorized to enter into mutual aid agreements with any federal or state agency, a city, county, special district or federally recognized Indian tribe or private firm, a corporation, or a federally recognized Indian tribe with a full time fire department (Cal. Health and Safety Code §13863).

Funding

The natural disaster assistance fund includes a subsidiary account, the earthquake emergency investigations account, to be used for the investigation of damaging earthquakes (meals, lodging, publishing findings). Money is continuously available and is appropriated without regard to fiscal year (Cal. Gov't Code §8690.25).

The emergency medical services fund is used to support emergency medical services (Cal. Gov't Code §76104).

The disaster relief fund aids response and recovery from earthquakes, aftershocks and related casualties, but does not supplant federal funds available in the absence of state financial relief (Cal. Gov't Code §16419).

The director of OES is authorized to solicit, receive, and administer funds or property from the federal or state governments to support and operate the California Specialized Training Institute (Cal. Gov't Code §8588.3(c)). The director also is authorized to accept firearms, weaponry, explosive materials, chemical agents and confiscated items from law enforcement as donations for training programs (Cal. Gov't Code §8588.3 (d)).

The statute sets out the procedure and requirements for the allocation and expenditure of federal funding by local health jurisdictions for the prevention and response to bio-terrorist attacks (2002 Cal. Acts, Chap. 393, 1161).

Proceeds from sales of California memorial license plates are deposited in the antiterrorism fund and used for antiterrorism activities or transferred to the California memorial scholarship fund (Cal. Vehicle Code §5066).

Hazard Mitigation

The proceeds of bond sales are to be used to increase the ability of unreinforced masonry multifamily residential structures to withstand earthquakes (Cal. Gov't Code §9989.20).

Funds are authorized to be used for retrofitting public facilities to improve earthquake safety (Cal. Gov't Code §8878.50 *et seq.*).

The Disaster Recovery Reconstruction Act of 1986 authorized assistance to cities and counties with advance preparation for disasters such as devastating earthquakes and for the recovery and reconstruction of affected communities (Cal. Gov't Code §8877.1 *et seq.*).

Cost-effective mitigation measures associated with the repair, restoration, reconstruction of local agencies' facilities damaged by natural disasters may be approved by the director of OES (Cal. Gov't Code §8686.4(b)).

Continuity of Government Operations

The legislature has the power to fill legislative offices and gubernatorial vacancies, to convene the legislature, and to hold elections to other constitutional offices following a war-caused or energy-caused disaster in the state (Cal. Const. Art.4, §21).

The preservation of local government and government services includes the succession of officers, standby officers, administration of oaths of office, and continuation of duties of the governing body (Cal. Gov't Code §8635 *et seq.*).

The Department of General Services is required to develop model business resumption plans for state agencies after acts of terrorism or natural disasters (Cal. Gov't Code §8549.20).

The statute provides procedures for expedited special elections to fill vacancies in congressional offices caused by a natural or man-made catastrophes that result in the death or disappearance of at least one-fourth of total membership of the U.S. House of Representatives, including any number of California representatives, or at least one-fourth of the total California delegation (Cal. Elections Code §10730 *et seq.*).

A local legislative body may meet in closed session for an authorized emergency meeting related to security matters (Cal. Gov't Code §54956.5).

Other

The statute authorizes training, recruitment, and reimbursement activities for dog search teams to operate after disasters (Cal. Gov't Code §8588.5).

The statute authorizes a statewide natural disaster volunteer corps program. OES is required to develop a plan to use volunteer resources during a state of emergency (Cal. Gov't Code §8599 *et seq.*).

State employees are entitled to administrative time off after being called into emergency service by OES. Overtime compensation is not awarded. Officers calling state employees into service are not liable for disability or death benefits if employees are injured or killed while working for OES. The statute sets time limits on emergency duty. The statute applies to search and rescue teams, rescue dogs, and the civil air patrol (Cal. Gov't Code §19844.5).

OES is required to develop guidance for response to disasters related to agriculture (Cal. Gov't Code §8570.5).

The California Highway Patrol is to perform risk assessments of the state transportation system in consultation with state and federal agencies (Cal. Gov't Code §8588.4).

Key Terms

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

| Terms | Citations |
|---------------------------------------|---------------------------------|
| Act of terrorism | Cal. Gov't Code §8549.2 |
| Antiterrorism activities | Cal. Vehicle Code §5066 (5) (e) |
| Disaster | Cal. Gov't Code §8680.3 |
| Disaster council | Cal. Gov't Code §8557 (f) |
| Disaster service worker | Cal. Gov't Code §8557 (f) |
| Emergency Council | Cal. Gov't Code §8557 (a) |
| Emergency plans | Cal. Gov't Code §8560 |
| Hazardous material emergency response | Cal. Gov't Code §8589.2 (a) |
| Incident command systems | Cal. Gov't Code §8607 (a) (1) |
| Local disaster councils | Cal. Gov't Code §8610 |
| Local emergency | Cal. Gov't Code §8680.9 |

| Terms | Citations |
|-----------------------------------|--------------------------------|
| Mutual aid region | Cal. Gov't Code §8559, 8600 |
| Master mutual aid agreement | Cal. Gov't Code §8561 |
| Operational area | Cal. Gov't Code §8605 |
| Sudden and severe energy shortage | Cal. Gov't Code §8557 (h) |
| Weapon of mass destruction | Cal. Penal Code §11417 (a) (1) |

For Further Research

The citations noted above and other elements of the state code for California may be searched at: [<http://www.leginfo.ca.gov/calaw.html>].