

## CHAPTER 11

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**GOVERNMENT - STATE**

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**HOUSE BILL 14-1004**

BY REPRESENTATIVE(S) Foote and Humphrey, Singer, Duran, Fields, Ginal, Hullinghorst, Kagan, May, Rosenthal, Salazar, Schafer, Williams, Young;  
also SENATOR(S) Nicholson and Lambert, Lundberg, Aguilar, Cadman, Crowder, Heath, Herpin, Hodge, Jahn, Johnston, Jones, Kefalas, Kerr, King, Marble, Newell, Schwartz, Steadman, Tochtrop, Todd, Ulibarri, Zenzinger.

**AN ACT**

**CONCERNING EMERGENCY MANAGEMENT, AND, IN CONNECTION THEREWITH, ELIMINATING AND REORGANIZING TWO ENTITIES WITHIN THE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT IN THE DEPARTMENT OF PUBLIC SAFETY AND AUTHORIZING THE GOVERNOR TO PROVIDE INDIVIDUAL ASSISTANCE DURING A DISASTER ABSENT A PRESIDENTIAL DECLARATION OF THE SAME.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 24-1-128.6, **amend** (4) as follows:

**24-1-128.6. Department of public safety - creation.** (4) (a) The Colorado emergency planning commission, created by ~~part 15 of article 33.5 of this title, shall exercise its powers and perform its duties and functions as if the same were transferred by a type 2 transfer to the department of public safety~~ SECTION 24-33.5-1503, PRIOR TO THE REPEAL OF THAT SECTION BY HOUSE BILL 14-1004, IS ABOLISHED, AND ITS POWERS, DUTIES, AND FUNCTIONS ARE TRANSFERRED BY A **TYPE 3** TRANSFER AS FOLLOWS:

(I) THE DUTY TO PROMULGATE ANY RULES NECESSARY FOR IMPLEMENTATION OF THE FEDERAL "EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986", 42 U.S.C. SEC. 11001 ET SEQ., TITLE III OF THE FEDERAL "SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986", PUB.L. 99-499, THE OTHER POWERS AND DUTIES DESCRIBED UNDER SECTION 24-33.5-1503.5(2), AND THE DUTY TO ADMINISTER THE SARA TITLE III FUND CREATED IN SECTION 24-33.5-1506, ARE TRANSFERRED TO THE DEPARTMENT OF PUBLIC SAFETY AND ALLOCATED TO THE DIRECTOR OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT; AND

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(II) ALL OTHER FUNCTIONS RELATING TO IMPLEMENTATION OF THE FEDERAL "EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986", 42 U.S.C. SEC. 11001 ET SEQ., TITLE III OF THE FEDERAL "SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986", PUB.L. 99-499, THAT WERE ENJOYED BY THE COLORADO EMERGENCY PLANNING COMMISSION PRIOR TO ITS REPEAL BY HOUSE BILL 14-1004, ARE TRANSFERRED TO THE DEPARTMENT OF PUBLIC SAFETY AND ALLOCATED TO THE EMERGENCY PLANNING SUBCOMMITTEE OF THE HOMELAND SECURITY AND ALL-HAZARDS SENIOR ADVISORY COMMITTEE, WHICH SUBCOMMITTEE IS CREATED UNDER SECTION 24-33.5-1614 (3.5).

~~(b) Effective July 1, 2012, the Colorado emergency planning commission in the department of local affairs, created by part 26 of article 32 of this title, prior to its repeal in 2012, and its powers, duties, and functions are transferred by a type 2 transfer to the department of public safety, pursuant to this article.~~

**SECTION 2.** In Colorado Revised Statutes, 24-33.5-704, **amend** (8) (a) (I), (8) (a) (II), and (8) (b) (IV); and **repeal** (3) and (8) (a) (III) as follows:

**24-33.5-704. The governor and disaster emergencies - expert emergency epidemic response committee - creation.** ~~(3) (a) There is hereby created a governor's disaster emergency council, referred to in this part 7 as the "council", consisting of not less than six nor more than nine members. The attorney general, the adjutant general, and the executive directors of the following departments shall be members: Personnel, transportation, public safety, and natural resources. The additional members, if any, shall be appointed by the governor from among the executive directors of the other departments. The governor shall serve as chairperson of the council, and a majority shall constitute a quorum. The council shall meet at the call of the governor and shall advise the governor and the director of the division of homeland security and emergency management on all matters pertaining to the declaration of disasters and the disaster response and recovery activities of the state government; except that nothing in the duties of the council shall be construed to limit the authority of the governor to act without the advice of the council when the situation calls for prompt and timely action when disaster threatens or exists.~~

~~(b) The members of the governor's disaster emergency council, as such existed prior to June 30, 2012, are the initial members of the council on July 1, 2012.~~

(8) (a) There is hereby created a governor's expert emergency epidemic response committee. The committee shall:

(I) Meet at least annually to review and amend, as necessary, the supplement to the state disaster plan that is concerned with the public health response to acts of bioterrorism, pandemic influenza, and epidemics caused by novel and highly fatal infectious agents; AND

(II) Provide expert public health advice to the governor in the event of an emergency epidemic. ~~and~~

~~(III) Provide information to, and fully cooperate with, the council.~~

(b)(IV) The executive director of the department of public safety or the executive director's designee shall serve as an ex officio member of the committee and ~~shall~~ is not be able to vote on decisions of the committee. He or she shall serve as a liaison between the committee ~~the council~~, and the Colorado emergency planning commission in the event of an emergency epidemic.

**SECTION 3.** In Colorado Revised Statutes, **amend** 24-33.5-1106 as follows:

**24-33.5-1106. Grants to individuals.** (1) Whenever the ~~president of the United States, at the request of the~~ governor has declared a major disaster to exist in this state, ~~the governor~~ HE OR SHE is authorized, upon ~~the governor's~~ MAKING A 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 which cannot be otherwise adequately met from other means of assistance, to accept a grant from the federal government to fund such financial assistance, subject to such terms and conditions as may be imposed upon the grant.

(2) Notwithstanding any other law or rule, the governor is authorized 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 grants shall not exceed five thousand dollars in the aggregate to an individual or family in any single major disaster declared by the ~~president~~ GOVERNOR.

**SECTION 4.** In Colorado Revised Statutes, **amend** 24-33.5-1502 as follows:

**24-33.5-1502. Definitions.** (1) All terms used in this part 15 have the same meaning as defined under the federal "Emergency Planning and Community Right-to-Know Act of 1986", 42 U.S.C. sec. 11001 et seq., Pub.L. 99-499, and regulations thereunder, referred to in this part 15 as the "federal act".

(2) AS USED IN THIS PART 15:

(a) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT CREATED IN SECTION 24-33.5-1603.

(b) "SUBCOMMITTEE" MEANS THE EMERGENCY PLANNING SUBCOMMITTEE OF THE HOMELAND SECURITY AND ALL-HAZARDS SENIOR ADVISORY COMMITTEE CREATED IN SECTION 24-33.5-1614 (3.5).

**SECTION 5.** In Colorado Revised Statutes, 24-33.5-1503.5, **amend** (1) introductory portion, (1) (a), (2) introductory portion, and (2) (d) as follows:

**24-33.5-1503.5. Powers and duties of the director - legislative intent - rules.** (1) It is the intent of the general assembly that the ~~commission~~ DIRECTOR, WITH THE ADVICE OF THE SUBCOMMITTEE, promulgate rules pursuant to this part 15 that encourage:

(a) Consistency between information requested by the ~~commission~~ DIRECTOR and the purposes of implementation of the federal act; and

(2) Consistent with the powers and duties imposed upon ~~it~~ HIM OR HER by the federal act, or granted to it in this part 15, the ~~commission~~ DIRECTOR has the following powers and duties:

(d) To coordinate ~~its~~ HIS OR HER activities with those of the Colorado state patrol relating to the transportation of hazardous materials.

**SECTION 6.** In Colorado Revised Statutes, 24-33.5-1504, **amend** (1) and (2); and **add** (4) as follows:

**24-33.5-1504. Local emergency planning committees - creation and duties.**

(1) The ~~commission~~ SUBCOMMITTEE shall designate local emergency planning districts to develop emergency response and preparedness capabilities in accordance with the federal act. The boundaries of such districts shall be the same as the boundaries of either a county, municipality, or a combination thereof.

(2) Upon the request of the ~~commission~~ SUBCOMMITTEE, the primary governing body having jurisdiction over the local emergency planning district, the county commissioners, or the city council, as the case may be, shall provide nominations for membership on the local emergency planning committee. The ~~commission~~ SUBCOMMITTEE shall appoint members of a local emergency planning committee for each emergency planning district in accordance with the federal act. For local emergency planning districts for which no nominations have been submitted by the governing body, the ~~commission~~ SUBCOMMITTEE may designate either the county commissioners or city council, as the case may be, to serve as the local emergency planning committee.

(4) UNLESS ANOTHER ENTITY IS SO DESIGNATED BY THE GOVERNOR, THE SUBCOMMITTEE IS THE STATE EMERGENCY RESPONSE COMMISSION REQUIRED UNDER THE FEDERAL ACT.

**SECTION 7.** In Colorado Revised Statutes, 24-33.5-1505, **amend** (3) as follows:

**24-33.5-1505. Immunity.** (3) ~~No~~ NEITHER THE DIRECTOR NOR ANY member of the ~~commission~~ SUBCOMMITTEE, or any local emergency planning committee shall be liable for the death of or any injury to persons or loss or damage to property or the environment or any civil damages resulting from any act or omission arising out of the performance of the functions, duties, and responsibilities of the ~~commission~~ DIRECTOR OR SUBCOMMITTEE or local emergency planning committee, except for acts or omissions which constitute willful misconduct.

**SECTION 8.** In Colorado Revised Statutes, 24-33.5-1506, **amend** (1) and (2) as follows:

**24-33.5-1506. SARA Title III fund - creation - acceptance of gifts, grants, and donations.** (1) There is hereby created in the state treasury ~~a fund to be known~~ as the SARA Title III fund, also referred to in this part 15 as the "fund", which shall be administered by the ~~commission~~ DIRECTOR. The moneys in the fund are subject to annual appropriation by the general assembly for the purposes of this part 15, including the disbursement of grants pursuant to section 24-33.5-1507.

(2) The ~~commission~~ DIRECTOR is hereby authorized to accept all moneys received from the federal government and from public or private grants, gifts, bequests, donations, and other contributions for any purpose consistent with the provisions of this part 15. ~~Such~~ THE moneys shall be credited to the SARA Title III fund. ~~created by subsection (1) of this section.~~

**SECTION 9.** In Colorado Revised Statutes, **amend** 24-33.5-1507 as follows:

**24-33.5-1507. Application for grants - disbursements from SARA Title III fund - regulations.** (1) The ~~department of public safety~~ OFFICE OF PREPAREDNESS IN THE DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT, CREATED IN SECTION 24-33.5-1606.5 AND REFERRED TO IN THIS SUBSECTION (1) AS THE "OFFICE", shall administer all grants from the fund. The ~~department~~ OFFICE shall accept applications from local emergency planning committees and from first responder organizations who have coordinated their request with their local emergency planning committee and shall direct those applications to the ~~commission~~. The ~~commission~~ SUBCOMMITTEE, WHICH shall evaluate the applications and shall recommend to the ~~department of public safety~~ OFFICE which grants should be made for the purposes of emergency planning and emergency response, including training and planning programs and training and planning equipment as needed to carry out the purposes of this part 15.

(2) WITH THE ADVICE OF THE SUBCOMMITTEE, the ~~commission~~ DIRECTOR shall promulgate rules prescribing the procedures to be followed in the making, filing, and evaluation of grant applications, and any other regulations necessary for administering the SARA Title III fund.

**SECTION 10.** In Colorado Revised Statutes, 24-33.5-1605, **amend** (2) as follows:

**24-33.5-1605. Director - duties and powers - rules.** (2) The director may promulgate, in accordance with article 4 of this title, any rules necessary to implement PART 15 OF THIS ARTICLE AND sections 24-33.5-1604 (2) (a), 24-33.5-1608, and 24-33.5-1609.

**SECTION 11.** In Colorado Revised Statutes, 24-33.5-1614, **add** (3.5) as follows:

**24-33.5-1614. Homeland security and all-hazards senior advisory committee - creation - composition - duties - creation of the emergency planning subcommittee - repeal.** (3.5) (a) IN ADDITION TO ANY SUBCOMMITTEES CREATED PURSUANT TO PARAGRAPH (f) OF SUBSECTION (3) OF THIS SECTION, THERE IS HEREBY CREATED THE EMERGENCY PLANNING SUBCOMMITTEE, ALSO REFERRED TO IN THIS SUBSECTION (3.5) AS THE "SUBCOMMITTEE", TO THE ADVISORY COMMITTEE.

(b) (I) THE SUBCOMMITTEE CONSISTS OF TWELVE MEMBERS.

(II) FIVE OF THE TWELVE MEMBERS ARE THE FOLLOWING EX OFFICIO REPRESENTATIVES OF STATE GOVERNMENT OR THEIR DESIGNEES:

(A) THE DIRECTOR;

(B) THE DIRECTOR OF THE DIVISION OF FIRE PREVENTION AND CONTROL IN THE DEPARTMENT OF PUBLIC SAFETY;

(C) THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT IN THE DEPARTMENT OF LOCAL AFFAIRS;

(D) THE DIRECTOR OF THE DIVISION IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT RESPONSIBLE FOR HAZARDOUS MATERIALS AND WASTE MANAGEMENT; AND

(E) A REPRESENTATIVE OF THE COLORADO STATE PATROL IN THE DEPARTMENT OF PUBLIC SAFETY.

(III) THE REMAINING SEVEN MEMBERS OF THE COMMISSION ARE APPOINTED BY THE EXECUTIVE DIRECTOR FOR TWO-YEAR TERMS, AND MAY BE REAPPOINTED FOR ADDITIONAL TERMS. OF THOSE SEVEN MEMBERS, TWO SHALL REPRESENT LOCAL GOVERNMENTS, TWO SHALL BE FROM EITHER PUBLIC INTEREST GROUPS OR COMMUNITY GROUPS, ONE SHALL REPRESENT A LOCAL EMERGENCY PLANNING COMMITTEE, AND TWO SHALL REPRESENT INDUSTRIES AFFECTED BY IMPLEMENTATION OF THE FEDERAL "EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986", 42 U.S.C. SEC. 11001 ET SEQ., TITLE III OF THE FEDERAL "SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986", PUB.L. 99-499.

(c)(I) THE MEMBERS OF THE COLORADO EMERGENCY PLANNING COMMISSION, AS SUCH EXISTED PRIOR TO ITS REPEAL PURSUANT TO HOUSE BILL 14-1004, ARE THE INITIAL MEMBERS OF THE SUBCOMMITTEE. THE TERMS OF SUCH INITIAL MEMBERS CONTINUE AND EXPIRE ACCORDING TO THE DATES FOR WHICH SUCH MEMBERS WERE ORIGINALLY APPOINTED.

(II) (A) UPON EXPIRATION OF THE TERMS OF THE INITIAL MEMBERS SERVING PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (c), AND UPON THE CREATION OF ANY OTHER VACANCY OR TERM EXPIRATION, THE EXECUTIVE DIRECTOR SHALL APPOINT A MEMBER REPRESENTING THE SAME INTEREST, AS DESCRIBED IN SUBPARAGRAPH (III) OF PARAGRAPH (b) OF THIS SUBSECTION (3.5), AS THE VACATING MEMBER.

(B) A VACANCY APPOINTMENT IS FOR THE REMAINDER OF THE UNEXPIRED TERM OF THE VACATING MEMBER.

(d) MEMBERS OF THE SUBCOMMITTEE DO NOT RECEIVE COMPENSATION OR PER DIEM FOR THEIR SERVICES ON THE SUBCOMMITTEE; EXCEPT THAT MEMBERS MAY BE REIMBURSED FOR TRAVEL EXPENSES INCURRED IN CONNECTION WITH ACTIVITIES OTHER THAN ATTENDING MEETINGS OF THE SUBCOMMITTEE.

(e) IN ADDITION TO ANY OTHER DUTIES AND FUNCTIONS DESCRIBED IN PART 15 OF THIS ARTICLE, THE SUBCOMMITTEE SHALL ADVISE THE ADVISORY COMMITTEE ON MATTERS PERTAINING TO IMPLEMENTATION OF THE FEDERAL "EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986", 42 U.S.C. SEC. 11001 ET SEQ., TITLE III OF THE FEDERAL "SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986", PUB.L. 99-499. THE SUBCOMMITTEE SHALL ALSO

KEEP THE ADVISORY COMMITTEE INFORMED OF ACTIONS IT TAKES UNDER SECTION 24-33.5-1504 REGARDING LOCAL EMERGENCY PLANNING COMMITTEES OR DISTRICTS.

(f) THIS SUBSECTION (3.5) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2019. PRIOR TO SUCH REPEAL, THE SUBCOMMITTEE SHALL BE REVIEWED PURSUANT TO SECTION 2-3-1203, C.R.S.

**SECTION 12.** In Colorado Revised Statutes, 2-3-1203, **add** (3) (ff.5) (III) as follows:

**2-3-1203. Sunset review of advisory committees.** (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(ff.5) September 1, 2019:

(III) THE EMERGENCY PLANNING SUBCOMMITTEE TO THE HOMELAND SECURITY AND ALL-HAZARDS SENIOR ADVISORY COMMITTEE, CREATED IN SECTION 24-33.5-1614 (3.5), C.R.S.

**SECTION 13.** In Colorado Revised Statutes, 2-3-1502, **repeal** (2) as follows:

**2-3-1502. Definitions.** As used in this part 15, unless the context otherwise requires:

(2) "Council" means the governor's disaster emergency council created in section 24-33.5-704 (3), C.R.S.

**SECTION 14.** In Colorado Revised Statutes, 2-3-1503, **amend** (1) (a) and (2) as follows:

**2-3-1503. Legislative emergency preparedness, response, and recovery committee - creation - membership - duties.** (1) (a) There is hereby created a legislative emergency preparedness, response, and recovery committee. The legislative committee shall develop a plan for the response by, and continuation of operations of, the general assembly and the legislative service agencies in the event of an emergency epidemic or disaster. The legislative committee shall cooperate and coordinate with ~~the council~~, the division, the department, and the GEEERC in developing the plan. The legislative committee shall develop and submit the plan to the speaker of the house of representatives, the president of the senate, the governor, the executive director of the department, ~~the council~~, the director of the division, and the GEEERC no later than July 1, 2011. The legislative committee shall meet at least annually to review and amend the plan as necessary and shall provide any updated plan to the persons or entities specified in this paragraph (a). ~~except that the legislative committee shall not meet during the 2010 interim.~~ The legislative committee may recommend legislation pertaining to the preparedness, response, and recovery by, and continuation of operations of, the general assembly and the legislative service agencies in the event of an emergency epidemic or disaster. The legislative committee shall provide information to and fully cooperate with ~~the council~~, the division, the department, and the GEEERC in fulfilling its duties under this section.

(2) In the event of an emergency epidemic or disaster that the governor declares to be a disaster emergency pursuant to section 24-33.5-704, C.R.S., the legislative committee shall convene as rapidly and as often as necessary to advise the speaker of the house of representatives, the president of the senate, and the legislative service agencies regarding reasonable and appropriate measures to be taken by the general assembly and the legislative service agencies to respond to the emergency epidemic or disaster and protect the public health, safety, and welfare. The legislative committee shall communicate, cooperate, and seek advice and assistance from ~~the council~~, the division, the department, and the GEEERC in responding to the emergency epidemic or disaster.

**SECTION 15.** In Colorado Revised Statutes, **repeal** 24-33.5-1503.

**SECTION 16. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: February 27, 2014