

CRS Report for Congress

Received through the CRS Web

Louisiana Emergency Management and Homeland Security Authorities Summarized

November 22, 2004

Keith Bea
Specialist in American National Government
Government and Finance Division

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

Louisiana Emergency Management and Homeland Security Authorities Summarized

Summary

The Louisiana Homeland Security and Emergency Assistance and Disaster Act requires that state emergency management functions be coordinated with those of the federal government and other states. The statute also confers emergency powers upon the governor and parish presidents and requires the preparation of statewide and local plans for emergency preparedness. The Louisiana Health Emergency Powers Act requires that actions be taken to protect life and control diseases in a public health emergency. Louisiana's Emergency Interim State Executive Succession Act, the Emergency Interim Legislative Succession Act, the Emergency Interim Judicial Succession Act, and the Emergency Interim Local Executive Succession Act provide lines of succession for all levels of government in the state.

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.

Contents

Entities with Key Responsibilities	1
Preparedness	3
Declaration Procedures	4
Types of Assistance	5
Mutual Aid	5
Funding	6
Hazard Mitigation	6
Continuity of Government Operations	7
Other	8
Key Terms	9
For Further Research	9

List of Tables

Table 1. Key Emergency Management and Homeland Security Terms Defined in Louisiana Statutes, with Citations	9
--	---

Louisiana Emergency Management and Homeland Security Authorities Summarized

Entities with Key Responsibilities

Governor: In addition to other powers conferred by law, the governor may: suspend provisions of any statute, order, rule or regulation; use all available resources; transfer personnel or functions of departments; commandeer private property; compel evacuation or control movement of population in a stricken or threatened area; regulate the sale, dispensation, or transportation of alcoholic beverages, firearms, and combustibles; and make provision for temporary emergency housing (La. Rev. Stat. Title 29, §724D). The governor may also order the militia into active service if needed for homeland security or emergency preparedness incidents (La. Rev. Stat. Title 29, §7). The governor may exercise emergency preparedness powers related to public health emergencies, as specified (La. Rev. Stat. Title 29, §766).

In addition, the governor may: carry out all precautionary measures against air raids and other forms of attack; undertake precautionary measures to minimize the loss of life or property which might result from enemy attacks; and make, amend, or rescind general or special orders, rules, and regulations as necessary. The statute also authorizes blackouts and radio silences as directed by the U.S. Army or designated agency (La. Rev. Stat. Title 53, §41-46).

Adjutant General: The adjutant general serves as the director of the office of homeland security and emergency preparedness, coordinates activities of emergency preparedness within the state, and cooperates with emergency preparedness agencies and organizations of other states and of the federal government (La. Rev. Stat. Title 29, §725). In response to a declared national or state emergency (due to war, a natural disaster or civil disturbance, or imminent danger), members of the Louisiana National Guard and military police, as directed by the adjutant general, have all of the powers and authority of peace officers unless otherwise restricted by executive orders, proclamations, regulations or orders (La. Rev. Stat. Title 29, §7.1). The adjutant general may promulgate public health rules for the National Guard (La. Rev. Stat. Title 29, §767).

Military Department: The statute designates the department to be the state homeland security and emergency preparedness agency (La. Rev. Stat. Title 29, §722A(1), see also La. Rev. Stat. Title 29, §725A). The department is composed of the National Guard, the Louisiana State Guard, military police, the Office of Homeland Security and Emergency Preparedness, and other offices created by law (La. Rev. Stat. Title 14, §1(B)).

Office of Homeland Security and Emergency Preparedness: Established within the Military Department, the office maintains a state emergency operations plan that addresses: the prevention and minimization of injury and damage; prompt and effective response; identification of areas particularly vulnerable to disasters or emergencies; coordination with other plans and the federal Department of Homeland Security; recommendations for zoning, building, and other land use controls; and other matters. The plan must also address the provision of assistance to local officials designing local and interjurisdictional emergency action plans and the organization of manpower and chains of command. The office must determine requirements for food, clothing, and other necessities; procure and pre-position supplies and equipment in the event of an emergency; identify resources, facilities, and people with training essential to mitigation, preparedness, response, and recovery; and, prepare executive orders, proclamations, and regulations for issuance by the governor (La. Rev. Stat. Title 29, §726). When the governor declares an emergency or disaster, the director of the office activates the state emergency response and recovery program (La. Rev. Stat. Title 29, §723(C)). Also, the director of the office coordinates with the Department of Health and Hospitals on public health emergencies, but has primary jurisdiction over specified activities (La. Rev. Stat. Title 29, §766(E)). The Subcommittee on Chemical and Biological Terrorism of the Homeland Security Advisory Council, which is established by the office, is responsible for the preparation of specific plans (La. Rev. Stat. Title 29, §764(A)).

Units of local government: Political subdivisions in Louisiana are authorized to create local organizations for emergency preparedness (La. Rev. Stat. Title 29, §722(A.)(1)). For purposes of homeland security and emergency preparedness, political subdivisions work within the jurisdiction of the state Military Department, Office of Homeland Security and Emergency Preparedness and are served by the parish homeland security and emergency preparedness agency for disaster preparedness, response, mitigation, and recovery (La. Rev. Stat. Title 29, §727(A.)).

Parish President: Parish presidents exercise emergency powers provided under the statute (La. Rev. Stat. Title 29, §722(A.)(2)). Parish presidents are directed to establish and maintain offices of homeland security and emergency preparedness in their parishes and may: suspend the provisions of any regulatory ordinance; utilize available resources; transfer direction, personnel, or functions of local departments; commandeer private property; compel evacuation or control movement of population in stricken or threatened area; and regulate the sale, dispensing, or transportation of alcoholic beverages, firearms, and combustibles (La. Rev. Stat. Title 29, §727(B., C., E., F.)).

Parish homeland security and emergency preparedness agency: The agency directors are appointed by parish presidents. Officials in parish homeland security and emergency preparedness agencies must prepare and maintain an all hazards emergency operations plan that may include the following elements: prevention and minimization of injury and damage; disaster response; emergency relief; identification of areas particularly vulnerable to disasters or emergency; land use controls; construction of temporary works to mitigate disasters; and coordination with other state agencies, local government, and the federal government. Agencies are to determine parish requirements for food, clothing, and other necessities; procure and pre-position supplies; and establish a register of available mobile and

construction equipment and temporary housing (La. Rev. Stat. Title 29, §728-§729 A-C, F).

Interjurisdictional emergency preparedness agency: The governing authorities of any two or more parishes may enter into agreements to establish regional emergency preparedness organizations. The interjurisdictional agencies must distribute statements to all appropriate officials that discuss the emergency responsibilities of local agencies and officials and chains of command. Political subdivisions not participating in interjurisdictional arrangements are encouraged to make arrangements for furnishing mutual aid. The statute provides for compensation for property commandeered by such agencies; authorizes parish agencies to enter another jurisdiction, upon request, to assist during an emergency; and limits the liability of the responding and requesting parishes (La. Rev. Stat. Title 29, §730-§730.1).

Louisiana Wing, Civil Air Patrol: The patrol is declared a “quasi agency” of the state, is designated the official search and rescue organization, and may provide services and assistance in response to disasters or emergencies (La. Rev. Stat. Title 29, §650). When providing disaster emergency services or assistance, a member of the Civil Air Patrol who in good faith renders emergency care, first aid, or rescue at the scene of an emergency, is not liable for damages (La. Rev. Stat. Title 29, §656). The state is directed to provide or pay for necessary medical and other expenses associated with the medical care needed by a member of civil air patrol who is injured or contracts a disease or illness while in the course of providing services or assistance during an official mission or a disaster emergency or exercise. The state has no other liability for damages associated with the illness or injury (La. Rev. Stat. Title 29, §657).

Emergency Response Commission: The statute established emergency planning districts and local emergency planning committees in the state in accordance with the federal Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001 et seq.) (La. Rev. Stat. Title 30, §2364).

Preparedness

The statute created the Environmental Emergency Response Training Program to instruct emergency response personnel to respond to and address environmental problems and emergencies occurring within their jurisdiction and to assist environmental emergencies occurring regionally. The chief of each eligible agency, including any municipality or parish, may apply to the department for allocation of funds from the Environmental Trust Fund for training (La. Rev. Stat. Title 30, §2035).

Health care providers, veterinarians, or other medical practitioners must report information, as directed in the statute, on cases that may cause public health emergencies (La. Rev. Stat. Title 29, §765).

Prior to the issuance of specified permits, applicants for solid waste disposal facilities must consider the ability of local emergency responders and medical care facilities to respond to hazardous material incidents. Certification must be obtained regarding response capabilities (La. Rev. Stat. Title 30, §2157).

Parish offices of homeland security and emergency preparedness may provide emergency alert services or designate providers of such services (La. Rev. Stat. Title 29, §842).

See also “Entities with Key Responsibilities”—*Office of Homeland Security and Emergency Preparedness*.

Declaration Procedures

The governor is authorized to declare a disaster or emergency if he finds a disaster has occurred or is imminent. The state of disaster emergency continues until the governor terminates it, or until emergency conditions no longer exist. The statute limits the length of a disaster emergency to 30 days unless it is renewed by the governor. The legislature, by means of a petition signed by a majority of the surviving members of either chamber, may terminate a state of disaster or emergency at any time. The declaration of a state of disaster emergency activates the state emergency response and recovery program (La. Rev. Stat. Title 29, §724 B(1-2), (C)).

The statute provides for the suspension or delay of an election due to an emergency. The governor may, upon issuance of an executive order declaring a state of emergency or impending emergency, suspend or delay the qualifying of candidates, or elections (La. Rev. Stat. Title 18, §401.1).

The governor is authorized to declare a state of public health emergency by executive order or proclamation, which continues for 30 days unless renewed by the governor. The legislature, by majority of either chamber, may terminate such an emergency at any time and prohibit the issuance of other such declarations (La. Rev. Stat. Title 29, §766, 768).

The statute authorizes commissioners at an oilfield site or related facility to issue an emergency declaration to require immediate action to prevent substantial or irreparable damage to the environment or a serious threat to life or safety. The commissioner is authorized to undertake the containment and abatement of the pollution source and pollutants and must submit an annual report to the House and Senate Natural Resources Committees that lists the number and type of emergencies declared (La. Rev. Stat. Title 30, §6.1D).

When an incident of such magnitude occurs as to require immediate action to prevent irreparable damage to the environment or a serious threat to life or safety, the Secretary of the Department of Environmental Quality may declare that an emergency exists. The secretary is authorized to undertake the containment and abatement of the pollution source and pollutants (La. Rev. Stat. Title 30, §2033).

A local disaster or emergency may be declared by the mayor or local chief executive, with immediate notification provided to the parish president. The state of emergency continues until terminated by the president or the emergency conditions no longer exist. A state of emergency may not continue for longer than 30 days unless extended by the parish president. A state of emergency or disaster may be terminated by the governor, by a petition signed by a majority of the surviving members of either of the state legislature, or a majority of the surviving members of the local governing authority. When a disaster or emergency exceeds the capabilities of local government, the local official must request assistance from the state office of emergency preparedness or the local office. A declaration of a local emergency activates the local response and recovery program (La. Rev. Stat. Title 29, §737D,E).

Information on protective actions to be taken during a state of public health emergency must be distributed by the Department of Health and Hospitals (La. Rev. Stat. Title 29, §770).

Types of Assistance

The statute authorizes the Department of Public Welfare, or other entity designated by the governor, to cooperate with the federal government in providing assistance to any person who needs such aid due to restrictive action of the federal government, the evacuation of civilians, sabotage, civil defense measures or enemy action. The Department or designated entity may establish rules and regulations to take any action necessary and desirable, to grant monetary assistance, to make investigations, and to render all other necessary or desirable services. The designated entities are authorized to accept any federal grant of assistance, under specified conditions (La. Rev. Stat. Title 53, §101-103).

A state or any political subdivision may accept any offer of equipment, supplies, materials or funds made by the federal government for war-time or defense activities (La. Rev. Stat. Title 53, §2).

The statute limits the pricing of goods and services within an emergency area to protect the parish from price gouging (La. Rev. Stat. Title 29, §732, 734).

Mutual Aid

The Interstate Emergency Preparedness and Disaster Compact is codified (La. Rev. Stat. Title 29, §733).

The Southern Regional Homeland Security and Emergency Preparedness Management Assistance Compact is codified (La. Rev. Stat. Title 29, §751).

In an emergency or a special event a political subdivision may furnish police manpower and equipment upon the request of another police department or sheriff's office (La. Rev. Stat. Title 33, §2337).

Political subdivisions, state agencies and organizations created jointly by Louisiana and another state, acting either singly or jointly, may by a majority vote of

its governing body acquire, and maintain any property necessary to the performance of any agreement with the federal government in connection with the war and defense program. Such entities may accept from the federal government or other sources money or property to aid them in operating and maintaining these projects (La. Rev. Stat. Title 53, §151).

The governing authorities of two or more parishes may establish regional organizations for homeland security and emergency preparedness (La. Rev. Stat. Title 29, §730).

Funding

The statute establishes as state policy that funds for disasters and emergencies are to always be available. The governor, with the concurrence of the disaster and emergency funding board, may transfer monies appropriated for other purposes or may borrow funds if funds regularly appropriated to state agencies are insufficient (La. Rev. Stat. Title 29, §731). This process also applies to financing public health emergencies (La. Rev. Stat. Title 29, §771(A)).

If the state legislature is not in session, the written consent of two-thirds of each legislative chamber must be obtained when the interim emergency board (composed of the governor, lieutenant governor, state treasurer, the presiding officer of each chamber of the legislature, and the chairs of the Senate Committee on Finance and the House Committee on Appropriations) finds that an emergency justifies the appropriation of money from the general fund or the borrowing of funds. Consent is obtained by sending ballots to members of the legislature. The statute imposes a limit on the amount of indebtedness to be incurred (La. Rev. Stat. Title 39, §461-461.9).

The statute created the Oilfield Site Restoration Fund for the response to any emergency as provided in statute, and other costs (La. Rev. Stat. Title 30, §86).

The statute established the Environmental Trust Fund to defray the costs of: emergency response activities; containment, control, and abatement of pollution sources and pollutants; investigation, containment, and cleanup of hazardous waste or solid waste sites; securing and quarantining hazardous waste sites; and implementing the Environmental Emergency Response Training Program (La. Rev. Stat. Title 30, §2015).

Hazard Mitigation

The statute established the finding that the vulnerability of people and communities in the state to natural or other catastrophes must be reduced (La. Rev. Stat. Title 29, §722(A)(4)(7,8)).

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

Continuity of Government Operations

The Emergency Interim Judicial Succession Act requires that the governor designate for each member of the supreme court, and the chief justice of the supreme court to designate for all other courts of record, from three to seven emergency judges and specify the order of their succession. Special emergency judges are empowered to discharge the duties of an office only after an attack upon the United States. The legislature may at any time terminate the authority by concurrent resolution (La. Rev. Stat. Title 13, §2701-2707).

The Emergency Interim Legislative Succession Act provides for emergency interim succession to the legislature by authorizing members to designate from three to seven emergency interim successors and specify their order of succession. Emergency interim successors must meet constitutional and statutory qualifications to hold office. The statute provides a contingent designation method for emergency interim successors. Emergency interim successors are to keep generally informed as to the duties, procedures, practices and current business of the legislature (La. Rev. Stat. Title 24, §61-69).

When, due to an enemy attack or an anticipated attack, it becomes imprudent or impossible to conduct state government at its regular location, the governor may declare emergency temporary location of government within or without the state (La. Rev. Stat. Title 24, §70).

In the event of an attack, the governor is to call the legislature into session within 90 days. If the governor fails to issue call, the legislature is to automatically convene. Each chamber must select a final emergency interim successor for any unavailable legislator. Limitations on the length of session and on the subjects that may be acted upon would be suspended. Emergency interim successors assume the duties until the incumbent legislators can act. In the event of an attack, quorum requirements are suspended and proportional voting requirements would be amended. The authority of emergency interim successors expires two years following the inception of an attack. The governor, by proclamation, or the legislature, by concurrent resolution, may extend or restore authority or the operation of any provisions when necessary, for up to one year (La. Rev. Stat. Title 24, §71-75).

The Emergency Interim Local Executive Succession Act enables legislative bodies of municipalities, parishes and other units of local government to provide for emergency interim successors to offices. The officers of political subdivisions are to designate three to seven deputies or emergency interim successors and specify their order of succession. Emergency interim successors are empowered to discharge the duties of an office only after an attack upon the United States. The governing body of the political subdivision, by resolution, may at any time terminate the authority of emergency interim successors, who may be removed or replaced by the designating authority at any time, with or without cause (La. Rev. Stat. Title 33, §1401-1408).

The Emergency Interim State Executive Succession Act provides for emergency interim succession to state offices. All officials authorized under the constitution or other authority to discharge the duties of the office of governor must designate three to seven deputies or emergency interim successors and specify their order of succession. The emergency interim successors are empowered to discharge the duties of an office only after an attack upon the United States. The state legislature by concurrent resolution may at any time terminate the authority of the successors (La. Rev. Stat. Title 49, §851-858).

The governor may convene the legislature in extraordinary session without prior notice or proclamation in the event of public emergency caused by epidemic, enemy attack, or public catastrophe (La. Constitution, Article 3, §2(C)).

Other

The statute sets limits on pricing of goods and services within an emergency area in order to protect the parish from price gouging (La. Rev. Stat. Title 29, §732).

The statute presents findings that state law must be strengthened to control the issuance of drivers' licenses or identification cards to those who seek to use the state highways to commit acts of terror (La. Rev. Stat. Title 14, §100.11) (Acts 2002, 1st Ex. Sess., No. 46, § 1).

Each public school principal must prepare a crisis management and response plan to address school safety, the incidence of violence at schools, and the management of other emergency situations. The plans must be developed with the assistance of emergency preparedness officials (La. Rev. Stat. Title 17, §416.16).

The statute limits civil liability to persons who voluntarily and without compensation permit their property to be used as a public shelter during an actual, impending, mock, or practice emergency (La. Rev. Stat. Title 29, §733.1).

The statute limits private liability during public health emergencies (La. Rev. Stat. Title 29, §771(B)).

A public body may hold a closed executive session for cases of extraordinary emergency, limited to natural disasters, threats of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude (La. Rev. Stat. Title 42, §6.1. A(5)).

A public employee who is a disaster service volunteer may be granted leave up to 15 days in each year to participate in specialized disaster relief services for the American Red Cross, without loss of pay, vacation time, sick leave or earned overtime accumulation (La. Rev. Stat. Title 42, §450.2-4).

Homeland security and emergency preparedness organizations cannot be used for political purposes (La. Rev. Stat. Title 29, §727(H)).

Key Terms

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

Terms	Citations
Act of terrorism	La. Rev. Stat. Title 14, §100.12(1), §128.1
Attack	La. Rev. Stat. Title 13, §2703(3), Title 33, §1403(d)
Bioterrorism	La. Rev. Stat. Title 49, §853(4)
Disaster	La. Rev. Stat. Title 29, §723(1), Title 42, §450.1(3)
Emergency	La. Rev. Stat. Title 29, §723(2), Title 33, §2337(3)(a)
Emergency alert provider	La. Rev. Stat. Title 45, §841(2)
Emergency interim successor	La. Rev. Stat. Title 13, §2703(2), Title 49, §853(2)
Extremely hazardous substance	La. Rev. Stat. Title 30, §2363(5)
Hazardous material	La. Rev. Stat. Title 30, §2363(7)
Parish office of homeland security and emergency preparedness	La. Rev. Stat. Title 45:841(5)
Public health emergency	La. Rev. Stat. Title 29, §762(L)

For Further Research

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