

VOLUNTEER SEARCH AND RESCUE WORKERS'

COMPENSATION CLAIMS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to state officers and employees to address workers' compensation claims by members of a county sheriff's search and rescue team.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the workers' compensation benefits available to a volunteer search and rescue team member under specified circumstances; ~~and~~ [and]

▶ allowing use of money in the Search and Rescue Financial Assistance Program for volunteer search and rescue workers' compensation costs; and ~~and~~

- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~and~~ 53-2-107, as last amended by Laws of Utah 2010, Chapter 208 ~~and~~

67-20-2, as last amended by Laws of Utah 2010, Chapter 300

67-20-3, as last amended by Laws of Utah 2002, Chapter 36

ENACTS:

67-20-7.5, Utah Code Annotated 1953

H.B. 55



28

29 *Be it enacted by the Legislature of the state of Utah:*29a **Ĥ→ Section 1. Section 53-2-107 is amended to read:**29b **53-2-107. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking --**
29c **Distribution.**29d **(1) (a) "Reimbursable expenses," as used in this section, means those reasonable costs**
29e **incidental to search and rescue activities.**29f **(b) "Reimbursable expenses" include:**29g **(i) rental for fixed wing aircraft, helicopters, snowmobiles, boats, and generators;**29h **(ii) replacement and upgrade of search and rescue equipment;**29i **(iii) training of search and rescue volunteers; [~~and~~]**29j **(iv) costs of providing workers' compensation benefits for volunteer search and rescue team**
29k **members under Section 67-20-7.5; and**29l **(iv) any other equipment or expenses necessary or appropriate for conducting search and**
29m **rescue activities.**29n **(c) "Reimbursable expenses" do not include any salary or overtime paid to any person on a**
29o **regular or permanent payroll, including permanent part-time employees of any agency or political**
29p **subdivision of the state.**29q **(2) There is created the Search and Rescue Financial Assistance Program within the division.**29r **(3) (a) The program shall be funded from the following revenue sources:**29s **(i) any voluntary contributions to the state received for search and rescue operations;**29t **(ii) money received by the state under Section 23-19-42, Section 41-22-34, and Section**
29u **73-18-24; and**29v **(iii) appropriations made to the program by the Legislature.**29w **(b) All funding for the program shall be nonlapsing.**29x **(4) The director shall use the money to reimburse counties for all or a portion of each county's**
29y **reimbursable expenses for search and rescue operations, subject to:**29z **(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2-109;**29aa **(b) money available in the program; and**29ab **(c) rules made under Subsection (7).**29ac **(5) Program money may not be used to reimburse for any paid personnel costs or paid man**
29ad **hours spent in emergency response and search and rescue related activities.**29ae **(6) The Legislature finds that these funds are for a general and statewide public purpose.**29af **(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules**
29ag **in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with**
29ah **this act:**29ai **(a) specifying the costs that qualify as reimbursable expenses;**

- 29aj (b) defining the procedures of agencies to submit expenses and be reimbursed; and
- 29ak (c) providing a formula to govern the distribution of available money among the counties for
- 29al uncompensated search and rescue expenses based on:
- 29am (i) the total qualifying expenses submitted;
- 29an (ii) the number of search and rescue incidents per county population;
- 29ao (iii) the number of victims that reside outside the county; and
- 29ap (iv) the number of volunteer hours spent in each county in emergency response and search and
- 29aq rescue related activities per county population. ←H

30 Section H→ [±] 2 ←H . Section 67-20-2 is amended to read:

31 **67-20-2. Definitions.**

32 As used in this chapter:

33 (1) "Agency" means:

34 (a) [~~any~~] a department, institution, office, college, university, authority, division, board,

35 bureau, commission, council, or other agency of the state;

36 (b) [~~any~~] a county, city, town, school district, or special improvement or taxing district;

37 or

38 (c) any other political subdivision.

39 (2) "Compensatory service worker" means [~~any~~] a person who performs a public

40 service with or without compensation for an agency as a condition or part of the person's:

41 (a) incarceration;

42 (b) plea;

43 (c) sentence;

44 (d) diversion;

45 (e) probation; or

46 (f) parole.

47 (3) (a) "Volunteer" means [~~any~~] a person who donates service without pay or other

48 compensation except expenses actually and reasonably incurred as approved by the supervising

49 agency.

50 (b) "Volunteer" does not include:

51 (i) [~~any~~] a person participating in human subjects research to the extent that the

52 participation is governed by federal law or regulation inconsistent with this chapter; or

53 (ii) a compensatory service [~~workers~~] worker.

54 (c) "Volunteer" includes a juror or potential juror appearing in response to a summons

55 for a trial jury or grand jury.

56 (4) "Volunteer safety officer" means an individual who:

57 (a) provides services as a volunteer under the supervision of an agency; and

58 (b) at the time the individual provides the services to the supervising agency described

59 in Subsection (4)(a), the individual is:

- 60 (i) exercising peace officer authority as provided in Section 53-13-102; or
- 61 (ii) if the supervising agency described in Subsection (4)(a) is a fire department:
 - 62 (A) on the rolls of the supervising agency as a firefighter;
 - 63 (B) not regularly employed as a firefighter by the supervising agency; and
 - 64 (C) acting in a capacity that includes the responsibility for the extinguishment of fire.

65 (5) "Volunteer search and rescue team member" means an individual who:

- 66 (a) provides services as a volunteer under the supervision of a county sheriff; and
- 67 (b) at the time the individual provides the services to the county sheriff described in

68 Subsection (5)(a), is:

- 69 (i) certified as a member of the county sheriff's search and rescue team; and
- 70 (ii) acting in the capacity of a member of the search and rescue team of the supervising
- 71 county sheriff.

72 Section ~~67-20-3~~ ~~3~~ ~~3~~ . Section **67-20-3** is amended to read:

73 **67-20-3. Purposes for which a volunteer is considered a government employee.**

74 (1) Except as provided in Subsection (2) or (3), a volunteer is considered a government
75 employee for purposes of:

76 (a) receiving workers' compensation medical benefits, which shall be the exclusive
77 remedy for all injuries and occupational diseases as provided under Title 34A, Chapter 2,
78 Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act;

79 (b) the operation of ~~a motor [vehicles]~~ vehicle or equipment if the volunteer is properly
80 licensed and authorized to do so; and

81 (c) liability protection and indemnification normally afforded paid a government
82 ~~[employees]~~ employee.

83 (2) (a) ~~[Notwithstanding Subsection (1)(a), a]~~ A supervising agency shall provide
84 workers' compensation benefits for a volunteer safety officer as provided in Section 67-20-7.

85 (b) ~~[Notwithstanding Subsection (2)(a), a]~~ A volunteer safety officer is considered an
86 employee of the supervising agency of the volunteer safety officer for purposes of Subsections
87 (1)(b) and (c).

88 (3) (a) The county of a county sheriff that certifies and supervises a volunteer search
89 and rescue team member shall provide workers' compensation benefits for the volunteer search

90 and rescue team member as provided in Section 67-20-7.5.

91 (b) For purposes of Subsections (1)(b) and (c), a volunteer search and rescue team
92 member is considered an employee of the county of the county sheriff that certifies and
93 supervises the volunteer search and rescue team member.

94 Section ~~H~~→ [3] 4 ←~~H~~ . Section **67-20-7.5** is enacted to read:

95 **67-20-7.5. Workers' compensation benefits for a volunteer search and rescue team**
96 **member.**

97 (1) A volunteer search and rescue team member is considered an employee of the
98 county of the county sheriff that certifies and supervises the volunteer search and rescue team
99 member for the purpose of receiving workers' compensation benefits under:

100 (a) Title 34A, Chapter 2, Workers' Compensation Act; and

101 (b) Title 34A, Chapter 3, Utah Occupational Disease Act.

102 (2) (a) In accordance with Section 34A-2-105, the workers' compensation benefits
103 described in Subsection (1) are the exclusive remedy against the county of the supervising
104 county sheriff or an officer, agent, or employee of the county or supervising county sheriff, for
105 the injuries and occupational diseases resulting from the volunteer search and rescue team
106 member's services for the supervising county sheriff as a volunteer search and rescue team
107 member.

108 (b) For purposes of Subsection (2)(a), the county of the supervising county sheriff for
109 whom the volunteer search and rescue team member provides services as a volunteer search
110 and rescue team member is considered an employer of the volunteer search and rescue team
111 member.

112 (3) To compute the workers' compensation benefits for a volunteer search and rescue
113 team member described in Subsection (1), the average weekly wage of the volunteer search and
114 rescue team member for purposes of the volunteer search and rescue team member's workers'
115 compensation claim is the average weekly wage of an entry-level deputy sheriff employed by
116 the supervising county sheriff at the time of the industrial accident or occupational disease.

Legislative Review Note
as of 1-17-11 9:37 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 55, 2011 General Session

SHORT TITLE: Volunteer Search and Rescue Workers' Compensation Claims

SPONSOR: Powell, K.

STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

County governments may incur costs associated with increased workers' compensation coverage for volunteer search and rescue workers. The cost of such coverage could not be estimated at this time.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.