

VOLUNTEER SEARCH AND RESCUE WORKERS'

COMPENSATION CLAIMS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: Kevin T. Van Tassell

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;
- ▶ allows use of money in the Search and Rescue Financial Assistance Program for volunteer search and rescue workers' compensation costs; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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:

30 67-20-7.5, Utah Code Annotated 1953

31

32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section 53-2-107 is amended to read:

34 **53-2-107. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking**
35 **-- Distribution.**

36 (1) (a) "Reimbursable expenses," as used in this section, means those reasonable costs
37 incidental to search and rescue activities.

38 (b) "Reimbursable expenses" include:

39 (i) rental for fixed wing aircraft, helicopters, snowmobiles, boats, and generators;

40 (ii) replacement and upgrade of search and rescue equipment;

41 (iii) training of search and rescue volunteers; [~~and~~]

42 (iv) costs of providing workers' compensation benefits for volunteer search and rescue
43 team members under Section 67-20-7.5; and

44 (iv) any other equipment or expenses necessary or appropriate for conducting search
45 and rescue activities.

46 (c) "Reimbursable expenses" do not include any salary or overtime paid to any person
47 on a regular or permanent payroll, including permanent part-time employees of any agency or
48 political subdivision of the state.

49 (2) There is created the Search and Rescue Financial Assistance Program within the
50 division.

51 (3) (a) The program shall be funded from the following revenue sources:

52 (i) any voluntary contributions to the state received for search and rescue operations;

53 (ii) money received by the state under Section 23-19-42, Section 41-22-34, and Section
54 73-18-24; and

55 (iii) appropriations made to the program by the Legislature.

56 (b) All funding for the program shall be nonlapsing.

57 (4) The director shall use the money to reimburse counties for all or a portion of each

58 county's reimbursable expenses for search and rescue operations, subject to:

59 (a) the approval of the Search and Rescue Advisory Board as provided in Section
60 53-2-109;

61 (b) money available in the program; and

62 (c) rules made under Subsection (7).

63 (5) Program money may not be used to reimburse for any paid personnel costs or paid
64 man hours spent in emergency response and search and rescue related activities.

65 (6) The Legislature finds that these funds are for a general and statewide public
66 purpose.

67 (7) The division, with the approval of the Search and Rescue Advisory Board, shall
68 make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
69 consistent with this act:

70 (a) specifying the costs that qualify as reimbursable expenses;

71 (b) defining the procedures of agencies to submit expenses and be reimbursed; and

72 (c) providing a formula to govern the distribution of available money among the
73 counties for uncompensated search and rescue expenses based on:

74 (i) the total qualifying expenses submitted;

75 (ii) the number of search and rescue incidents per county population;

76 (iii) the number of victims that reside outside the county; and

77 (iv) the number of volunteer hours spent in each county in emergency response and
78 search and rescue related activities per county population.

79 Section 2. Section **67-20-2** is amended to read:

80 **67-20-2. Definitions.**

81 As used in this chapter:

82 (1) "Agency" means:

83 (a) [~~any~~] a department, institution, office, college, university, authority, division, board,
84 bureau, commission, council, or other agency of the state;

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

86 or

87 (c) any other political subdivision.

88 (2) "Compensatory service worker" means [~~any~~] a person who performs a public
89 service with or without compensation for an agency as a condition or part of the person's:

90 (a) incarceration;

91 (b) plea;

92 (c) sentence;

93 (d) diversion;

94 (e) probation; or

95 (f) parole.

96 (3) (a) "Volunteer" means [~~any~~] a person who donates service without pay or other
97 compensation except expenses actually and reasonably incurred as approved by the supervising
98 agency.

99 (b) "Volunteer" does not include:

100 (i) [~~any~~] a person participating in human subjects research to the extent that the
101 participation is governed by federal law or regulation inconsistent with this chapter; or

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

103 (c) "Volunteer" includes a juror or potential juror appearing in response to a summons
104 for a trial jury or grand jury.

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

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

107 (b) at the time the individual provides the services to the supervising agency described
108 in Subsection (4)(a), the individual is:

109 (i) exercising peace officer authority as provided in Section 53-13-102; or

110 (ii) if the supervising agency described in Subsection (4)(a) is a fire department:

111 (A) on the rolls of the supervising agency as a firefighter;

112 (B) not regularly employed as a firefighter by the supervising agency; and

113 (C) acting in a capacity that includes the responsibility for the extinguishment of fire.

114 (5) "Volunteer search and rescue team member" means an individual who:
115 (a) provides services as a volunteer under the supervision of a county sheriff; and
116 (b) at the time the individual provides the services to the county sheriff described in

117 Subsection (5)(a), is:

118 (i) certified as a member of the county sheriff's search and rescue team; and
119 (ii) acting in the capacity of a member of the search and rescue team of the supervising
120 county sheriff.

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

122 **67-20-3. Purposes for which a volunteer is considered a government employee.**

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

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

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

130 (c) liability protection and indemnification normally afforded paid a government
131 [employees] employee.

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

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

137 (3) (a) The county of a county sheriff that certifies and supervises a volunteer search
138 and rescue team member shall provide workers' compensation benefits for the volunteer search
139 and rescue team member as provided in Section 67-20-7.5.

140 (b) For purposes of Subsections (1)(b) and (c), a volunteer search and rescue team
141 member is considered an employee of the county of the county sheriff that certifies and

142 supervises the volunteer search and rescue team member.

143 Section 4. Section **67-20-7.5** is enacted to read:

144 **67-20-7.5. Workers' compensation benefits for a volunteer search and rescue team**
145 **member.**

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

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

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

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

157 (b) For purposes of Subsection (2)(a), the county of the supervising county sheriff for
158 whom the volunteer search and rescue team member provides services as a volunteer search
159 and rescue team member is considered an employer of the volunteer search and rescue team
160 member.

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