COVID-19 HEALTH AND ECONOMIC RESPONSE ACT

2020 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel Hemmert

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill enacts the COVID-19 Health and Economic Response Act.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Public Health and Economic Emergency Commission (commission) to advise and make recommendations to the governor regarding the state's response to the COVID-19 emergency;
- establishes the membership and duties of the commission;
- requires the commission to provide a plan by a certain date to the governor that moves the state to a less urgent response level; and
- addresses the governor's response to the commission's plan.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53-2c-101, Utah Code Annotated 1953

53-2c-102, Utah Code Annotated 1953

53-2c-103, Utah Code Annotated 1953

53-2c-201, Utah Code Annotated 1953

53-2c-202, Utah Code Annotated 1953

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

Section 1. Section **53-2c-101** is enacted to read:

CHAPTER 2c. COVID-19 HEALTH AND ECONOMIC RESPONSE ACT

Part 1. General Provisions

53-2c-101. Title.

This chapter is known as the "COVID-19 Health and Economic Response Act."

Section 2. Section **53-2c-102** is enacted to read:

53-2c-102. Definitions.

(1) "Commission" means the Public Health and Economic Emergency Commission created in Section 53-2c-201.

(2) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(3) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(4) "Elective surgery or procedure" means a surgery or procedure that is not medically necessary to correct a serious medical condition or preserve the life of a patient.

(5) "Epidemic or pandemic disease" means the same as that term is defined in Section 26-23b-102.

(6) "Local ordinance or order" means an ordinance, order, or other regulation enacted or issued by a local government entity.

(7) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition:

(a) that is caused by epidemic or pandemic disease;

(b) that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability; and

(c) for which the governor has declared a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

Section 3. Section **53-2c-103** is enacted to read:

53-2c-103. Relation to other provisions.

(1) This chapter supersedes any conflicting provisions of Utah law.

(2) (a) If the governor adopts, by order, a recommendation made by the commission, the adopted recommendation supersedes any portion of a local ordinance or order that is more restrictive than or in direct conflict with the adopted recommendation, unless the governor allows an exception at the time the governor adopts the recommendation or at anytime thereafter.

(b) If an adopted recommendation supersedes a portion of a local ordinance or order under Subsection (2)(a), the remaining portion of the local ordinance or order remains valid.

(3) The governor may not suspend the application or enforcement of any provision of this chapter.

Section 4. Section **53-2c-201** is enacted to read:

Part 2. Health and Economic Response

53-2c-201. Public Health and Economic Emergency Commission -- Creation -- Membership -- Quorum -- Per diem -- Staff support -- Meetings.

(1) There is created the Public Health and Economic Emergency Commission consisting of the following members:

(a) the executive director of the Department of Health, or the executive director's designee;

(b) four individuals, appointed by the governor, including:

(i) the chief executive of a for profit health care organization that operates at least one hospital in the state;

(ii) the chief executive of a not-for-profit health care organization that operates at least one hospital in the state; and

(iii) two other individuals;

(c) two individuals appointed by the president of the Senate;

(d) two individuals appointed by the speaker of the House of Representatives; and

(e) one individual appointed by the chief executive officer of the Utah Association of Counties.

(2) (a) The president of the Senate and the speaker of the House of Representatives shall jointly designate one of the members appointed under Subsection (1)(c) or (d) as chair of the commission.

(b) For an appointment under Subsection (1)(c) or (d), the president of the Senate or the speaker of the House of Representatives may appoint a legislator or a non-legislator.

(3) (a) If a vacancy occurs in the membership of the commission appointed under Subsection (1)(b), (c), (d), or (e), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member of the commission serves until the member's successor is appointed and qualified.

(4) (a) A majority of the commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2, Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The Governor's Office of Management and Budget shall:

(a) provide staff support to the commission; and

(b) coordinate with the Office of Legislative Research and General Counsel regarding the commission.

(7) A meeting of the commission that takes place during a public health emergency is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 5. Section **53-2c-202** is enacted to read:

53-2c-202. Commission duties -- Recommendations -- Governor's response.

(1) The commission shall advise and make recommendations to the governor regarding the state's response to the COVID-19 emergency.

(2) As part of the commission's duties under Subsection (1), the commission shall:

(a) identify at least three economic and health guidance levels that may be used to:

(i) establish an overall risk assessment for the state; and

(ii) provide targeted risk assessments based on:

(A) geographic areas of the state;

(B) groups of individuals, based on each group's risk level of serious illness from COVID-19 due to demographic characteristics, including age or underlying health conditions;

(C) groups of individuals, based on each group's personal experience with COVID-19, including testing positive for, having symptoms of, or having recovered from COVID-19; or

(D) industries;

(b) establish criteria for assigning each economic and health guidance level described in Subsection (2)(a);

(c) identify the social and economic activities that the commission recommends take place or be restricted under each economic and health guidance level described in Subsection (2)(a);

(d) develop a plan to promote widespread testing of individuals for COVID-19;

(e) develop a plan to encourage individuals to use available technology to allow the state to identify and track the prevalence and transmission of COVID-19; and

(f) develop universal communication elements for governmental entities to use in

messaging related to the COVID-19 emergency.

(3) (a) On or before April 22, 2020, the commission shall present a plan to the governor that:

(i) provides for the state to operate under an economic and health guidance level described in Subsection (2)(a)(i) that is immediately below the highest risk economic and health guidance level;

(ii) includes reasonable guidelines under which health care providers may perform elective surgeries and procedures and restaurants may resume or continue, subject to the reasonable guidelines, normal operations; and

(iii) is available to the public.

(b) If the governor does not implement the commission's plan described in Subsection (3)(a) on or before April 30, 2020, the governor shall, on or before April 30, 2020, issue a public statement that explains the governor's decision, including the generally accepted data the governor relied upon in reaching the decision.

(4) In conducting the commission's work, the commission shall:

(a) focus on the overall well-being of the state's residents by balancing economic and public health considerations and exploring all options to mitigate the impact of the COVID-19 emergency on daily life; and

(b) consult with local government officials, as appropriate.

Section 6. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.