

TITLE 59
PUBLIC OFFICERS IN GENERAL

CHAPTER 14
EMERGENCY INTERIM EXECUTIVE AND JUDICIAL SUCCESSION ACT

59-1401. SHORT TITLE. This act shall be known and may be cited as the "Emergency Interim Executive and Judicial Succession Act."

[59-1401, added 1961 (Ex. Sess.), ch. 2, sec. 1, p. 12.]

59-1402. DECLARATION OF POLICY. Because of the existing possibility of attack upon the United States of unprecedented size and destructiveness, and in order, in the event of such an attack, to assure continuity of government through legally constituted leadership, authority and responsibility in offices of the government of the state and its political subdivisions; to provide for the effective operation of governments during an emergency; and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary to provide for additional officers who can exercise the powers and discharge the duties of governor; to provide for emergency interim succession to governmental offices to this state, and its political subdivisions, in the event the incumbents thereof (and their deputies, assistants or other subordinate officers authorized, pursuant to law, to exercise all of the powers and discharge the duties of such offices--hereinafter referred to as deputy) are unavailable to perform the duties and functions of such offices; and to provide for special emergency judges who can exercise the powers and discharge the duties of judicial offices in the event regular judges are unavailable.

[59-1402, added 1961 (Ex. Sess.), ch. 2, sec. 2, p. 12.]

59-1403. DEFINITIONS. Unless otherwise clearly required by the context, as used in this act:

(a) Unavailable means either that a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office (including any deputy exercising the powers and discharging the duties of an office because of a vacancy) and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

(b) Emergency interim successor means a person designated pursuant to this act, in the event the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the constitution, statutes, charters and ordinances or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(c) Office includes all state and local offices, the powers and duties of which are defined by the constitution, statutes, charters, and ordinances, except the office of governor, and except those in the legislature and the judiciary.

(d) Attack means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means or other weapons or process.

(e) Political subdivision includes counties, cities, towns, villages, townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

[59-1403, added 1961 (Ex. Sess.), ch. 2, sec. 3, p. 12.]

59-1404. ADDITIONAL SUCCESSORS TO OFFICE OF GOVERNOR. In the event that the governor, for any of the reasons specified in the constitution, is not able to exercise the powers and discharge the duties of his office, or is unavailable, and in the event the lieutenant governor, president pro tempore of the senate, and the speaker of the house of representatives be for any of the reasons specified in the constitution not able to exercise the powers and discharge the duties of the office of governor, or be unavailable, the secretary of state and state controller shall, in the order named, if the preceding named officers be unavailable, exercise the powers and discharge the duties of the office of governor until a new governor is elected and qualified, or until a preceding named officer becomes available; Provided, however, that no emergency interim successor to the aforementioned offices may serve as governor.

[59-1404, added 1961 (Ex. Sess.), ch. 2, sec. 4, p. 12; am. 1994, ch. 180, sec. 143, p. 512.]

59-1405. EMERGENCY INTERIM SUCCESSORS FOR STATE OFFICERS. All state officers subject to such regulations as the governor (or other official authorized under the constitution or this act to exercise the powers and discharge the duties of the office of governor) may issue, shall, upon approval of this act, in addition to any deputy authorized pursuant to law to exercise all of the powers and discharge the duties of the office, designate by title emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary designations made pursuant to this act to insure their current status. The officer will designate a sufficient number of such emergency interim successors so that there will be not less than three (3), nor more than seven (7), such deputies or emergency interim successors or any combination thereof, at any time. In the event that any state officer is unavailable following an attack, and in the event his deputy, if any, is also unavailable, the said powers of his office shall be exercised and the said duties of his office shall be discharged by his designated emergency interim successors in the order specified. Such emergency interim successors shall exercise said powers and discharge said duties only until such time as the governor under the constitution or authority other than this act (or other official authorized under the constitution or this act to exercise the powers and discharge the duties of the office of governor) may, where a vacancy exists, appoint a successor to fill the vacancy or until a successor is otherwise appointed, or elected and qualified as provided by law; or an officer or his deputy or a preceding named emergency interim successor) becomes available to exercise, or resume the exercise of, the powers and discharge the duties of his office.

[59-1405, added 1961 (Ex. Sess.), ch. 2, sec. 5, p. 12.]

59-1406. ENABLING AUTHORITY FOR EMERGENCY INTERIM SUCCESSORS FOR LOCAL OFFICES. With respect to local offices for which the legislative bodies of cities, towns, villages, townships, and counties may enact resolutions or

ordinances relative to the manner in which vacancies will be filled or temporary appointments to office made, such legislative bodies are hereby authorized to enact resolutions or ordinances providing for emergency interim successors to offices of the aforementioned governmental units. Such resolutions and ordinances shall not be inconsistent with the provisions of the act.

[59-1406, added 1961 (Ex. Sess.), ch. 2, sec. 6, p. 12.]

59-1407. EMERGENCY INTERIM SUCCESSORS FOR LOCAL OFFICERS. The provisions of this section shall be applicable to officers of political subdivisions (including, but not limited to, cities, towns, villages, townships, and counties, as well as school, fire, power and drainage districts) not included in section [59-1406](#)[, Idaho Code]. Such officers, subject to such regulations as the executive head of the political subdivision may issue, shall upon approval of this act, designate by title (if feasible) or by named person, emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this act to insure their current status. The officer will designate a sufficient number of persons so that there will be not less than three (3), nor more than seven (7), deputies or emergency interim successors or any combination thereof at any time. In the event that any officer of any political subdivision (or his deputy provided for pursuant to law) is unavailable, the powers of the office shall be exercised and duties shall be discharged by his designated emergency interim successors in the order specified. The emergency interim successor shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy which may exist shall be filled in accordance with the constitution or statutes or until the officer (or his deputy or a preceding emergency interim successor) again becomes available to exercise the powers and discharge the duties of his office.

[59-1407, added 1961 (Ex. Sess.), ch. 2, sec. 7, p. 12.]

59-1408. SPECIAL EMERGENCY JUDGES. In the event that any judge of any court is unavailable to exercise the powers and discharge the duties of his office, and in the event no other judge authorized to act in the event of absence, disability or vacancy or no special judge appointed in accordance with the provisions of the constitution or statutes is available to exercise the powers and discharge the duties of such office, the duties of the office shall be discharged and the powers exercised by the special emergency judges hereinafter provided for:

(a) The governor, upon approval of this act, shall designate for each member of the Supreme Court special emergency judges in the number of not less than three (3) nor more than seven (7) for each member of said court and shall specify their order of succession.

(b) The chief justice of the Supreme Court in consultation with the other members of said court, upon approval of this act, shall designate for each court of record except the Supreme Court, special emergency judges in the number of not less than three (3) nor more than seven (7) for each judge of said courts and shall specify their order of succession.

(c) The chief judge of the district court (or the presiding or senior judge of a district in consultation with the other judges of that district where there is more than one judge), upon approval of this act, shall des-

ignate not less than three (3) special emergency judges for courts not of record within that district and shall specify their order of succession. Such special emergency judges shall, in the order specified, exercise the powers and discharge the duties of such office in case of the unavailability of the regular judge or judges or persons immediately preceding them in the designation. The designating authority shall review and revise, as necessary, designations made pursuant to this act to insure their current status. Said emergency special judges shall discharge the duties and exercise the powers of such office until such time as a vacancy which may exist shall be filled in accordance with the constitution and statutes or until the regular judge or one preceding the designee in the order of succession becomes available to exercise the powers and discharge the duties of the office.

[59-1408, added 1961 (Ex. Sess.), ch. 2, sec. 8, p. 12.]

59-1409. FORMALITIES OF TAKING OFFICE. At the time of their designation, emergency interim successors and special emergency judges shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed. Notwithstanding any other provision of law, no person, as a prerequisite to the exercise of the powers of discharge of the duties of an office to which he succeeds, shall be required to comply with any other provision of law relative to taking office.

[59-1409, added 1961 (Ex. Sess.), ch. 2, sec. 9, p. 12.]

59-1410. PERIOD IN WHICH AUTHORITY MAY BE EXERCISED. Officials authorized to act as governor pursuant to this act, emergency interim successors and special emergency judges are employed to exercise the powers and discharge the duties of an office as herein authorized only after an attack upon the United States, as defined herein, has occurred. The legislature, by concurrent resolution, may at any time terminate the authority of said emergency interim successors and special emergency judges to exercise the powers and discharge the duties of office as herein provided.

[59-1410, added 1961 (Ex. Sess.), ch. 2, sec. 10, p. 12.]

59-1411. REMOVAL OF DESIGNEES. Until such time as the persons designated as emergency interim successors or special emergency judges are authorized to exercise the powers and discharge the duties of an office in accordance with this act, including section [59-1410](#)[, Idaho Code,] hereof, said persons shall serve in their designated capacities at the pleasure of the designating authority and may be removed or replaced by said designating authority at any time, with or without cause.

[59-1411, added 1961 (Ex. Sess.), ch. 2, sec. 11, p. 12.]

59-1412. DISPUTES. Any dispute concerning a question of fact arising under this act with respect to an office in the executive branch of the state government (except a dispute of fact relative to the office of governor) shall be adjudicated by the governor (or other official authorized under the constitution or this act to exercise the powers and discharge the duties of the office of governor) and his decision shall be final.

[59-1412, added 1961 (Ex. Sess.), ch. 2, sec. 12, p. 12.]

CHAPTER 15
SUPPLEMENTAL RETIREMENT SYSTEM [REPEALED]