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### Title 55 Chapter 01-03: Public Welfare to Public Works - 1953

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#### Recommended Citation

Utah Code Annotated Title 55 1 to 3 (Michie, 1953)

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**TITLE 55**  
**PUBLIC WELFARE**

- Chapter 1. Public Welfare Commission, 55-1-1 to 55-1-28.
2. Public Assistance Act of 1947, 55-2-1 to 55-2-34.
  3. Public Works Program, 55-3-1 to 55-3-43.
  4. Self-Help Cooperatives, 55-4-1 to 55-4-5.
  5. Blind Persons Operating Vending Stands, 55-5-1 to 55-5-4.
  6. Tuberculosis Sanatoriums, 55-6-1 to 55-6-22.
  7. Alcoholics, 55-7-1 to 55-7-10.
  8. Placing Out of Children, 55-8-1 to 55-8-5.
  9. Day Nurseries, 55-9-1 to 55-9-5.
  10. Juvenile Courts, 55-10-1 to 55-10-62.
  11. Detention Schools, 55-11-1 to 55-11-8.

**CHAPTER 1**  
**PUBLIC WELFARE COMMISSION**

- Section 55-1-1. Department of public welfare—Creation.
- 55-1-2. Public welfare commission—Powers—Duties.
- 55-1-3. Participation in federal funds—Contribution of funds required.
- 55-1-4. Department to act as agency in administration of funds.
- 55-1-5. County and district departments of public welfare.
- 55-1-6. Powers and duties of state, county and district boards.
- 55-1-7. Powers and duties of county and district departments.
- 55-1-8. County and district directors to appoint staffs.
- 55-1-9. Director's budget—Commission report to governor and department of finance.
- 55-1-10. Administration of funds—Termination of grants.
- 55-1-11. County and district estimates—Action of public welfare commission.
- 55-1-12. Definitions.
- 55-1-13. Partial invalidity—Saving clause.
- 55-1-14. Public welfare commission—Personnel—Terms—Removal.
- 55-1-15. Oaths—Salaries—Bonds.
- 55-1-16. Not to hold other office—Exceptions—No additional pay.
- 55-1-17. Meetings—Quorum—Secretary.
- 55-1-18. Place of principal offices—Branch offices.
- 55-1-19. Official seal—Evidence—May administer oaths.
- 55-1-20. Meetings—Chairman—Quorum.
- 55-1-21. To advise commission on policy, rules and functions.
- 55-1-22. Termination of terms of present board.
- 55-1-23. State department of public welfare to administer existing and continuing laws.
- 55-1-24. Employees—Continuation of services.
- 55-1-25. Employment of—Merit basis—Personnel standards.
- 55-1-26. Compliance with Federal Social Security Act.
- 55-1-27. Public welfare commission—Receipt of gifts, grants and devises.
- 55-1-28. Donor to designate recipient.

**55-1-1. Department of public welfare—Creation.**—There is created a department to be known as the state department of public welfare which shall be charged with the administration of all public welfare functions

of the state, and of such public welfare institutions as the legislature may provide.

**History:** L. 1935, ch. 69, § 1; 1941, ch. 68, § 1; C. 1943, 76A-1-1.

**Compiler's Note.**

The 1941 amendment changed text of section following word "state" the last time it appears.

**Title of Act.**

An act creating a state department of public welfare; providing for the appointment of a state board of public welfare; authorizing the appointment of a director and other assistants and employes of the department and providing for their compensations; defining the powers and duties of such board and such director; authorizing the board to act as the official agency of the state in the administration of any state or federal funds made available for relief and welfare purposes; providing for the creation of county or district depart-

ments of public welfare and defining their powers and duties; and repealing all acts or parts of acts in conflict herewith.

**Comparable Provisions.**

Deering's Cal. Welf. and Inst. Code, § 100 (department of social welfare).

Idaho Code 1947, § 56-101 (creating department of public assistance).

Iowa Code 1950, § 234.2 (creating state department of public welfare).

Montana Rev. Codes 1947, § 71-201 (creating state department of public welfare).

**Collateral References.**

Social Security and Public Welfare ↪ 5. Administration; officers and agencies, 41 Am. Jur. 691, Poor and Poor Laws § 14 et seq.

Generally, 41 Am. Jur. 680, Poor and Poor Laws § 1 et seq.

**55-1-2. Public welfare commission—Powers—Duties.**—The public welfare commission is charged with the duty and responsibility of determining the policies of the department. It shall adopt and enforce all rules and regulations not in conflict with law that it may deem necessary or advisable to perform the duties and functions conferred upon it by any law of this state and to manage, operate and control such institutions as may be committed to it by law, and to comply with the rules, regulations and requirements of the federal government or any agency thereof applicable to any such function or institution. With the approval of the governor, it shall appoint (1) a director of social service, (2) a director of welfare institutions, (3) a director of corrective institutions for minors.

The commission may organize its activities into other divisions, bureaus and departments, and may with the approval of the governor appoint such other directors, chiefs or heads thereof, as it may deem desirable or necessary to secure the efficient performance of its duties and functions.

The public welfare commission, with the approval of the board of examiners, is authorized to sell on terms determined to be for the best interest of the state any real property which it may hold and which is not needed for welfare purposes.

**History:** L. 1935, ch. 69, § 4; 1941, ch. 68, § 1; C. 1943, 76A-1-4; L. 1947, ch. 90, § 1.

(Code 1943) were repealed by Laws 1941, ch. 66, § 15.

**Compiler's Notes.**

The 1941 amendment completely rewrote entire section.

The 1947 amendment made minor changes in phraseology of first and second paragraphs, and added the last paragraph.

Former sections 76A-1-2 and 76A-1-3

**Cross-References.**

Powers and duties respecting industrial school, 64-6-5.

Respecting state hospital, 64-7-4.

Respecting Utah state training school, 64-8-4.

**Collateral Reference.**

Social Security and Public Welfare ↪ 5.

**55-1-3. Participation in federal funds—Contribution of funds required.**—When authorized by the governor, the commission shall accept in behalf of this state, and bind this state by such acceptance, any executive or legislative provisions that may be promulgated or enacted by the federal government or any agency thereof, whereby this state is invited, permitted or authorized to participate in the distribution, disbursement or administration of any fund or service, advanced, offered or contributed in whole or in part by the federal government for purposes relating or pertaining to the execution of any duty charged upon the department by the provision of any law of this state. If any such executive or legislative provisions shall require, as a condition to the participation by this state in such fund, property or service that the state furnish, supply or contribute money, property or service, the department of public welfare shall furnish and supply all such funds, out of any funds provided for the use and disbursement of said department and shall use or disburse all such funds furnished by the federal government, and by this state for the purposes enumerated in or contemplated by such executive or legislative provisions.

**History:** L. 1935, ch. 69, § 5; 1941, ch. 68, § 1; C. 1943, 76A-1-5.

**Collateral Reference.**

Social Security and Public Welfare⇒5.

**Compiler's Note.**

The 1941 amendment made material changes in text.

**55-1-4. Department to act as agency in administration of funds.**—After the acceptance of such executive or legislative provisions of the federal government, the state department of public welfare shall act as the sole agency of the state in administering and giving full force and effect to the provisions and conditions so promulgated or enacted, according to the intent and meaning thereof; and the department may, by rules and regulations adopted by it, provide in compliance with said federal provisions, or independently thereof, and in cooperation with counties or other local districts for the administration of any state or federal funds for relief and welfare purposes.

**History:** L. 1935, ch. 69, § 6; 1941, ch. 68, § 1; C. 1943, 76A-1-6.

**Collateral Reference.**

Social Security and Public Welfare⇒5.

**Compiler's Note.**

The 1941 amendment inserted the word "shall" after the word "welfare."

**55-1-5. County and district departments of public welfare.**—There is created within and for each county in the state, a county department of public welfare; provided that the state public welfare commission may, for the purpose of securing a more adequate administration and conservation of funds at any time in its discretion, create district departments of public welfare and include therein two or more counties in a single district, by and with the approval of the majority of the county commissioners of each of the counties so affected.

(a) Each county and district department of public welfare shall be under the supervision, direction and control of and shall act by and

through a board to be known as the county or district board of public welfare, as the case may be, to be composed of seven members. Each department shall have a director of public welfare and such additional employees as may be necessary for the efficient performance of the welfare services of the department. One member of such county or district boards shall be a county commissioner of the county or one of the counties comprising such district departments and the other members of such boards shall be representative citizens who are residents within said county or district departments who have demonstrated their interest in social service and public welfare problems, at least one of whom shall be a woman and not more than one-half of the members of the board, other than the county commissioners, shall be members of the same political party. In district department the boards of county commissioners for the counties included therein shall unite in making the appointment of a county commissioner and other members of said board, such other members to be so selected that each county in the district shall be represented on said board. In county departments, the board of county commissioners of the county shall designate which of its members shall serve on said board and shall appoint the other members of the county board as hereinafter provided for.

(b) All members of the county and district welfare boards shall be appointed by the board or boards of county commissioners of the county or counties comprising such districts. All county and district welfare directors shall be appointed by the county and district welfare boards and shall be persons who are qualified for such positions based upon training, experience, and general ability.

(c) The terms of office of all members of the county and district boards, except the county commissioner and members first appointed, shall be six years and shall commence on the first day of April of the year in which they are appointed and expire on the 31st day of March six years later.

(d) The county commissioners shall designate which of the members of the county board shall retire on March 31, 1939; which shall retire on March 31, 1941, and which shall retire on March 31, 1943. Whenever the term of office of the county commissioner, who is serving as a member of the county or district board of public welfare, shall expire and he is not re-elected the board or boards of county commissioners, as the case may be, shall appoint and submit to the state public welfare commission the name of another member of their board to act as a member of such county or district board of public welfare. A member or members of the county board may be removed by the board of county commissioners of such county and a member or members of the district board may be removed by the boards of county commissioners of the counties comprising such districts for neglect or failure, whether from physical incapacity or otherwise, to properly perform and carry out the duties of their office and all vacancies so created shall be filled by the board or boards of county commissioners, as the case may be, within thirty days after any such removal or removals have been made

in the manner herein provided for the appointment of members of such boards in the first instance.

(e) The state public welfare commission shall fix and maintain minimum standards of service and personnel, the tenure of office or employment, and grounds for removal therefrom, and shall formulate with the written approval of the department of finance salary schedules, and may hold or direct the holding of examinations to ascertain the qualifications of candidates for appointment to any or all positions or services in the state department of public welfare based upon training, experience and general ability.

(f) The board of county commissioners in the several counties of this state are authorized to cooperate with the public welfare commission and the county and district boards of public welfare in all matters affecting their respective counties necessary to put into full force and effect and carry out the provisions of this act.

(g) The county boards of public welfare now acting as such in the several counties of the state are directed to continue in office and serve until their successors are duly appointed and qualified as herein provided.

**History:** L. 1935, ch. 69, § 7; 1937, ch. 88, § 1; 1941, ch. 68, § 1; C. 1943, 76A-1-7; L. 1947, ch. 91, § 1.

**Compiler's Notes.**

The 1937 and 1941 amendments each practically rewrote entire section.

The 1947 amendment rewrote the first paragraph and made other minor changes in phraseology of section.

**Cross-References.**

County commissioners, powers and duties generally, 17-5-1 et seq.

Dependent mothers, public aid for, 17-13-1 et seq.

**Collateral Reference.**

Social Security and Public Welfare 5.

**55-1-6. Powers and duties of state, county and district boards.**—The state department of public welfare shall:

(a) Administer or supervise either directly or through the county and district department of public welfare, all forms of public assistance and welfare activities including general relief for persons in need, old age assistance, aid to dependent children, aid to the needy blind and otherwise handicapped, aid in child welfare activities and all other public welfare matters contemplated by this act.

(b) Prescribe qualifications and recommend salary standards for welfare personnel in the state department, and suggest qualifications and salary standards for the county and district welfare departments.

(c) Provide for the compilation of necessary or desirable information, statistics and reports relative to public welfare matters in this state.

(d) Cooperate with the federal government in the administration of public welfare activities in this state in which the federal government may participate, and make such reports in such form and containing such information as the federal government may from time to time require, and comply with such provisions as the federal government may from time to time find necessary to assure the correctness and verification of such reports.

(e) Make available and use, either directly or wherever appropriate through the state department of health, state department of education, or other organizations, such state funds available to it as may be required from time to time to comply with the conditions under which funds have been or may hereafter be made available by the federal government for public health, public health nursing, vocational rehabilitation, maternal and child health, aid to crippled children, relief to persons in need and other public welfare purposes in this state.

(f) Promote the enforcement of all laws for the protection of mentally defective, illegitimate, dependent, neglected and delinquent children except laws whose administration is expressly vested in some other state department. To this end it shall cooperate with juvenile courts and all licensed child welfare agencies and institutions of a public or private character, and, shall take the initiative in all matters involving the interest of such children where adequate provisions therefor have not already been made or is [are] not likely to be made.

(g) Adopt and enforce all such rules and regulations and do and perform all such acts and exercise all such powers as may be necessary or desirable to fully cooperate with the federal government in the administration of such welfare matters and to carry out the provisions and accomplish the purposes of this act.

(h) Use such state funds as may be available to it as the public welfare commission may deem necessary to meet the expense of medical and surgical eye care and other sight conservation work.

(i) Perform such other duties and functions as may be required by law.

**History:** L. 1935, ch. 69, § 8; 1937, ch. 88, § 1; 1939, ch. 86, § 1; 1941, ch. 68, § 1; C. 1943, 76A-1-8.

**Compiler's Notes.**

The several amendments of 1937, 1939 and 1941, each, practically rewrote text of section.

The bracketed word "are" was inserted by the compiler of the 1943 Code.

**Repealing Clause and Effective Date.**

Section 9 of Laws 1935, ch. 69 (76A-1-9, Code 1943) provided as follows: "All acts or parts of acts in conflict with the provisions of this act are hereby repealed."

Section 10 of said Laws 1935, ch. 69 (76A-1-10, Code 1943) provided that act should take effect on approval. Approved March 26, 1939.

**Collateral Reference.**

Social Security and Public Welfare ↪5.

**55-1-7. Powers and duties of county and district departments.**—The county and district department of public welfare, subject to the supervision and direction of the state department as herein provided, shall be charged with the administration of all forms of public assistance in the county or district including relief for persons in need, old age assistance, aid to dependent children, aid to the needy blind, and otherwise handicapped, care of dependent, neglected, delinquent, or handicapped children, and such other welfare activities as may be required of them by this act or by rule or regulation of the state department. They shall annually submit in accordance with this act to the boards of county commissioners of their respective counties, after approval by the state department, a budget containing an estimate, with supporting data,

setting forth the amount of money needed from such county to carry out such welfare activities in said county during the ensuing year, and shall do and perform such other acts as may be necessary on their part to fully accomplish the purposes of this act.

**History:** L. 1935, ch. 69, § 11, added by **Collateral Reference.**  
L. 1937, ch. 88, § 1; C. 1943, 76A-1-11. Social Security and Public Welfare⑤.

**55-1-8. County and district directors to appoint staffs.**—The county and district directors, with the approval of the county and district boards, shall appoint such staffs as may be necessary to administer the welfare activities within their respective counties or districts. All such appointees shall, however, possess the qualifications prescribed by the state public welfare commission and may, with the approval of the county or district boards, be removed at any time by the county or district director. The salary of the members of the staff shall be fixed by the county or district boards in conformity with the salary schedule prescribed by the state department.

**History:** L. 1935, ch. 69, § 12, added by **Compiler's Note.**  
L. 1937, ch. 88, § 1; 1941, ch. 68, § 1; C. The 1941 amendment made various changes in phraseology of section.  
1943, 76A-1-12.

**Collateral Reference.**  
Social Security and Public Welfare⑤.

**55-1-9. Director's budget—Commission report to governor and department of finance.**—Each director of divisions of the state department of public welfare shall prepare and submit to the public welfare commission for its approval an annual budget of all funds necessary to be appropriated by the legislature for the purposes of the division under his direction, including in such budget an estimate of federal funds which may be allotted to the state by the federal government for such purposes. He shall prepare annually and submit to the public welfare commission not later than two months after the close of the fiscal year, a full report of the operations and administration of his division, together with recommendations and suggestions. Prior to the close of each fiscal year the public welfare commission shall prepare and submit to the governor and to the department of finance, an annual budget of all funds deemed to be necessary to be appropriated or allocated for the uses of the department of public welfare during the ensuing year, including an estimate of the federal funds which may be allotted to the state for welfare purposes under its supervision; and not later than three months after the close of each fiscal year, the public welfare commission shall submit to the governor and to the department of finance, a full report of the operations and administration of the department of public welfare with its suggestions and recommendations.

**History:** L. 1935, ch. 69, § 13, added by **Compiler's Note.**  
L. 1937, ch. 88, § 1; 1941, ch. 68, § 1; C. The 1941 amendment made material changes in text of section.  
1943, 76A-1-13.

**Collateral Reference.**  
Social Security and Public Welfare⑤.



**55-1-10. Administration of funds—Termination of grants.**—In administering any funds appropriated or made available to the state department for welfare purposes the state department shall have power,

(a) To require, as a condition for receiving grants-in-aid, that the county or district shall bear the proportion of the total expense of furnishing aid as is fixed by the provisions of this act relating to such assistance.

(b) To terminate any grants-in-aid to any county or district if the laws providing such grants-in-aid are not complied with.

**History:** L. 1935, ch. 69, § 14, added by **Collateral Reference.**  
L. 1937, ch. 88, § 1; C. 1943, 76A-1-14. Social Security and Public Welfare↔5.

**55-1-11. County and district estimates—Action of public welfare commission.**—The county board of public welfare of each county and the district board of public welfare of each district, on or before the fifteenth day of September of each even-numbered year, shall make an estimate of the amount that will be required to make the payments and expenses of administration contemplated by this act for the next biennium, the amount to be received by it from the public welfare commission and any other sources.

County and district boards of public welfare shall forthwith certify such estimate to the public welfare commission for its consideration and approval. Upon receipt of such estimate, the public welfare commission shall examine the same and if it shall find that it is just and correct or that it needs revision, the public welfare commission shall revise and make the same just and accurate and shall include the same in its biennial report to the legislature.

**History:** L. 1935, ch. 69, § 15, added by **The 1947 amendment deleted all except**  
L. 1937, ch. 88, § 1; 1939, ch. 87, § 1; 1941, first paragraph of former section. The  
ch. 68, § 1; C. 1943, 76A-1-15; L. 1947, second paragraph of the present section  
ch. 92, § 1. is new.

**Compiler's Notes.**

The 1939 and 1941 amendments completely rewrote section.

**Collateral Reference.**

Social Security and Public Welfare↔5.

**55-1-12. Definitions.**—As used in this act:

“State department” means the state department of public welfare.

“County department” means the county department of public welfare.

“County board” means the county board of public welfare.

“County director” means the director of the county department of public welfare.

“District department” means the district department of public welfare.

“District board” means the district board of public welfare.

“District director” means the director of the district department of public welfare.

**History:** L. 1935, ch. 69, § 17, added by **Former section 76A-1-16 (Code 1943)**  
L. 1937, ch. 88, § 1; 1941, ch. 68, § 1; C. 1943, 76A-1-17. was repealed by Laws 1947, ch. 92, § 2.

**Collateral Reference.**

Social Security and Public Welfare↔2.

**Compiler's Notes.**

The 1941 amendment made no material change in text of section.

**55-1-13. Partial invalidity—Saving clause.**—If any section or clause of this act shall be held unconstitutional the remaining provisions shall be given full force and effect as completely as if the part held unconstitutional had not been included herein.

**History:** L. 1935, ch. 69, § 18, added by L. 1937, ch. 88, § 1; C. 1943, 76A-1-18.  
**Collateral References.**  
 Statutes⇌64(2).  
 59 C.J. Statutes § 224.

**55-1-14. Public welfare commission—Personnel—Terms—Removal.**—The administration of the department of public welfare shall be under the supervision, direction and control of a commission which shall be known as the public welfare commission. The public welfare commission shall be composed of three members appointed by the governor by and with the consent of the senate, whose terms of office shall be six years except as further provided in this section. Of the members first appointed, the term of one shall expire March 1, 1943, the term of one shall expire March 1, 1945, and the term of one shall expire March 1, 1947, but shall hold office until such time as their successors shall be appointed and qualified. Not more than two members of the commission shall belong to the same political party. One member of the commission shall be designated by the governor as chairman and any two commissioners may constitute a quorum. Any member of the commission may be removed for cause by the governor.

**History:** L. 1941, ch. 66, § 1; C. 1943, 76A-1-19.

**Title of Act.**

An act creating the public welfare commission; providing for the appointment of the public welfare commission and the public welfare commission advisory council their terms of office, salaries, and duties and powers; transferring the administration of the state department of public welfare to the public welfare commission, terminating the terms of office of the present members of the state board of public welfare and the director thereof; repealing sections 2 and 3, Chapter 69, Laws of Utah, 1935, as amended by Chapter 88, Laws of Utah, 1937.

**Comparable Provisions.**

Deering's Cal. Welf. and Inst. Code, § 101 (social welfare board; seven members; appointed by governor).

Idaho Code 1947, § 65-300 $\frac{1}{2}$ 3 (state board of public assistance to consist of a commissioner and such other officers as he may designate).

Iowa Code 1950, § 234.3 (state board of social welfare to consist of three members, one of them a woman; not more than two members of the board may be from same political party; appointed by governor with approval of two-thirds vote of members of senate in executive session).

Montana Rev. Codes 1947, § 71-202 (state board of public welfare to consist of five members appointed by governor, with advice and consent of senate).

**Decisions from other Jurisdictions.**

— **California.**

Although the legislature has invested in the state social welfare board a large measure of discretion, to be exercised under the rules presented in the Welfare and Institutions Code, such discretion may not be exercised arbitrarily, capriciously, or without a factual basis sufficient to justify the action taken. *Bila v. Young*, — Cal. App. 2d —, 117 P. 2d 939.

— **Iowa.**

District court was not warranted in reinstating old-age assistance applicants whose certificates of assistance had been cancelled by state board of social welfare, where evidence failed to disclose decision of said board constituted abuse of discretion or fraud. *Schneberger v. State Board of Social Welfare*, 228 Iowa 399, 291 N. W. 859.

**Collateral References.**

Social Security and Public Welfare⇌5, Administration; officers and agencies, 41 Am. Jur. 691, Poor and Poor Laws § 14 et seq.

**55-1-15. Oaths—Salaries—Bonds.**—Each member of the commission shall qualify by taking the constitutional oath of office and shall receive a salary at the rate of \$4,000 per annum payable monthly following the date of his qualification. Each member shall be paid his expenses necessarily incurred while actually engaged in the performances of his duties in authorized travel from the office of the commission at the state capitol. Each member shall give a bond for the faithful performance of his duties in such form and in such amount as shall be determined by the department of finance.

**History:** L. 1941, ch. 66, § 2; C. 1943, 76A-1-20. **Collateral Reference.** Social Security and Public Welfare↔5.

**Cross-Reference.**

Official oaths and bonds of public officers, 52-1-1.

**55-1-16. Not to hold other office—Exceptions—No additional pay.**—Each member of the commission shall devote his full time and attention to the duties of his office and shall not hold any other office under the laws of this state or under the government of the United States or of any other state, but this provision shall not be construed to prevent any member from holding such nominal position or title as may be required by law as a condition to participation by the state in any appropriation or allotment of any money, property or service which may be made or allotted for any of the functions of the commission or of the institutions under its supervision, nor shall this provision be construed to prevent any member from acting as head or chief of any of the divisions, departments or bureaus which may be established for the operation of the commission in the performance of its duties, but in any such case no additional compensation shall be paid to the member of the commission holding such office.

**History:** L. 1941, ch. 66, § 3; C. 1943, 76A-1-21. **Cross-Reference.** Public officers generally, Title 52.

**55-1-17. Meetings—Quorum—Secretary.**—Meetings of the commission shall be open to the public and may be held at the offices of the commission wherever within the state they may be established. The commission shall be deemed in continuous session for the purpose of meetings. Two members of the commission shall constitute a quorum for the transaction of business unless otherwise required by law. The commission may elect a secretary who may or may not be a member of the commission.

**History:** L. 1941, ch. 66, § 4; C. 1943, 76A-1-22. **Collateral Reference.** Social Security and Public Welfare↔5.

**55-1-18. Place of principal offices—Branch offices.**—The commission shall keep its principal offices at the state capitol, but may with the approval of the commission of finance establish and maintain such branch or division offices within the state as may be necessary for the prompt and efficient performance of its duties.

**History:** L. 1941, ch. 66, § 5; C. 1943, 76A-1-23. **Collateral Reference.** Social Security and Public Welfare↔5.

**55-1-19. Official seal—Evidence—May administer oaths.**—The commission shall adopt and use an official seal and file an impression and a description thereof in the office of the secretary of state. Copies of its records and proceedings and copies of documents and papers in its possession may be authenticated with the seal of the commission, attested by its chairman or by its secretary, and when so authenticated shall be received in evidence to the same extent and with the same effect as the originals. Each member of the commission shall have the power to administer oaths for all purposes required in the discharge of his duties.

**History:** L. 1941, ch. 66, § 6; C. 1943, **Collateral Reference.**  
76A-1-24.

Social Security and Public Welfare↔5.

**55-1-20. Meetings—Chairman—Quorum.**—The members of the advisory council shall meet at the earliest convenient date of the month of March of each year at the office of the commission at the state capitol at the call of the chairman of the commission. At its first meeting the advisory council shall elect a chairman from its membership who shall serve until the next annual meeting of the council and the council may at any time elect such other officers from its membership as it shall deem necessary. The commission shall assign one of its employees to act as secretary of the council without additional compensation therefor, and shall supply the council with such stationery, supplies and facilities as may be reasonably necessary. Meetings of the advisory council may be held at any time or place and upon call of the governor, or the commission or of the chairman of the council upon notice of the time, place and purpose of the meeting given by mail, telegraph or telephone to each of the members of the council not less than two days prior to the date fixed for such meeting. A majority of the members present at any meeting shall constitute a quorum for the transaction of business.

**History:** L. 1941, ch. 66, § 8; C. 1943, **Collateral Reference.**  
76A-1-26.

Social Security and Public Welfare↔5.

**Compiler's Note.**

Former section 76A-1-25 (Code 1943)  
was repealed by Laws 1947, ch. 89, § 27.

**55-1-21. To advise commission on policy, rules and functions.**—It shall be the duty and function of the advisory council to make suggestions to and to advise the commission with respect to the policies, rules or regulations of the commission, the conduct of its business and of its employees, and the needs and wishes of the public with respect to any of the functions of the commission or the institutions under its control. It shall be the duty of the commission to receive and consider the suggestions and advice of the advisory council but nothing herein contained shall be construed to require the commission to adopt the same or to conform its practices thereto.

**History:** L. 1941, ch. 66, § 9; C. 1943, **Collateral Reference.**  
76A-1-27.

Social Security and Public Welfare↔5.

**55-1-22. Termination of terms of present board.**—The terms of office of the state board of public welfare appointed pursuant to chapter 88, Laws of Utah, 1937, and of the director of the department of public

welfare appointed pursuant to such chapter shall terminate upon the appointment and qualification of the three appointed members of the public welfare commission herein provided for.

**History:** L. 1941, ch. 66, § 10; C. 1943, **Collateral Reference.**  
76A-1-28. Social Security and Public Welfare↔6.

**55-1-23. State department of public welfare to administer existing and continuing laws.**—The state department of public welfare shall succeed to all the powers and discharge all duties and perform all the functions which by existing and continuing law are conferred upon or required to be discharged or performed by the state department of public welfare created by chapter 69, Laws of Utah, 1935, and the acts supplementary thereto. Whenever any existing or continuing law refers to or names the state department of public welfare or any officer, agent or employee of the state department of public welfare, it shall be construed to mean, refer to and name the state department of public welfare created by this act, or the corresponding officer, agent or employee of such department, and whenever any such law refers to or names the state board of public welfare, it shall be construed to mean, refer to and name the public welfare commission.

**History:** L. 1941, ch. 66, § 11; C. 1943, **Collateral Reference.**  
76A-1-29. Social Security and Public Welfare↔5.

**55-1-24. Employees—Continuation of services.**—The public welfare commission may continue in employment all employees of the state department of public welfare to which it shall succeed, and, without specific action by the commission each such employee may continue in employment as the employee of the commission at the salary or wage applicable to his position at the time this act becomes effective, subject to removal or discharge at any time thereafter at the discretion of the commission.

**History:** L. 1941, ch. 66, § 12; C. 1943, **Collateral Reference.**  
76A-1-30. Social Security and Public Welfare↔6.

**55-1-25. Employment of—Merit basis—Personnel standards.**—All employees of the state department of public welfare and of the county and district departments of public welfare when required by the Federal Social Security Act as amended by any order, rule or regulation, promulgated, made or adopted pursuant thereto, shall be selected or chosen on a merit basis and until otherwise provided by law, the state department of public welfare shall provide for the establishment and maintenance of personnel standards on a merit basis, acceptable to and approved by the social security board established under the Federal Social Security Act. Anything in this act to the contrary notwithstanding.

**History:** L. 1941, ch. 66, § 13; C. 1943, **Collateral Reference.**  
76A-1-31. Social Security and Public Welfare↔6.

**55-1-26. Compliance with Federal Social Security Act.**—The state department of public welfare and the county and district departments of public welfare shall in all cases comply and conform to all the requirements of the Federal Social Security Act as amended or to all orders, rules, regulations, promulgated, made or adopted pursuant thereto when

required as a condition to participation in any of the benefits under said Federal Social Security Act. Anything in this act to the contrary notwithstanding.

**History:** L. 1941, ch. 66, § 14; C. 1943, 76A-1-32.

**Repealing Clause and Effective Date.**

Section 15 of Laws 1941, ch. 66 (76A-1-33, Code 1943) provided as follows: "Sections 2 and 3, Chapter 69, Laws of Utah, 1935, as amended by Chapter 88, Laws of Utah, 1937, are repealed."

Section 16 of said Laws 1941, ch. 66 (76A-1-34, Code 1943) provided that act should take effect July 1, 1941, at 12:01 A. M. or upon the proclamation of the governor prior to that date.

**Comparable Provisions.**

Deering's Cal. Welf. and Inst. Code, § 120 (department of social welfare may cooperate with federal government, its agencies or instrumentalities, in any matters within scope of department's functions, the amendment amplifying upon

service for protection and care of homeless, dependent and neglected children).

Idaho Code 1947, § 56-203 (conferring power upon department of public assistance to cooperate with federal government in carrying out federal acts pertaining to public assistance).

Iowa Code 1950, § 234.6, subd. 2 (requiring state department of social welfare to cooperate with federal social security board so as to qualify for federal aid).

Montana Rev. Codes 1947, § 71-211 (requiring state department of public welfare to act as agent of federal government in public welfare matters, in conformity with Montana statute and Federal Social Security Act).

**Collateral Reference.**

Social Security and Public Welfare↔8.

**55-1-27. Public welfare commission—Receipt of gifts, grants and devises.**—The public welfare commission is authorized to receive gifts, grants and devises.

**History:** L. 1947, ch. 88, § 1; C. 1943, Supp., 76A-1-35.

Commission to receive gifts and designating the use thereof.

**Title of Act.**

An act authorizing the Public Welfare

**Collateral Reference.**

Social Security and Public Welfare↔5.

**55-1-28. Donor to designate recipient.**—Such gifts, grants or devises shall be accepted by the public welfare commission and the gift, grant or devise or the proceeds therefrom shall be credited to the public welfare institution or to the public welfare program which the donor designates, and may be used for such purposes as the donor may request.

**History:** L. 1947, ch. 88, § 2; C. 1943, Supp., 76A-1-36.

**Collateral Reference.**

Social Security and Public Welfare↔5.

## CHAPTER 2

### PUBLIC ASSISTANCE ACT OF 1947

- |         |         |                                                                                                                                  |
|---------|---------|----------------------------------------------------------------------------------------------------------------------------------|
| Section | 55-2-1. | Definitions.                                                                                                                     |
|         | 55-2-2. | Transfer of property by recipient or applicant—Suspension or disqualification for assistance—Determination of period—Exceptions. |
|         | 55-2-3. | Purpose of act—Who are persons in need.                                                                                          |
|         | 55-2-4. | Right to public assistance—Affluence not disqualifying applicant—Public assistance on temporary basis.                           |
|         | 55-2-5. | Powers and prerogatives of public welfare department—Right to take lien or assignment of property—Foreclosure of lien.           |
|         | 55-2-6. | Right of persons sixty-five years of age or older.                                                                               |
|         | 55-2-7. | Characterization of assistance to blind persons or persons with defective vision—Effect of other income and resources.           |
|         | 55-2-8. | Characterization of assistance to child under eighteen.                                                                          |

- 55-2-9. General public assistance—Work projects.
- 55-2-10. Maximum standards of assistance—Adjustments—Permissible exceptions—Use of recipient's potential resources—Assets precluding assistance.
- 55-2-11. Appropriations.
- 55-2-12. Amount of assistance—Determination.
- 55-2-13. Payment of public assistance—To whom made—Effect of death of recipient or applicant.
- 55-2-14. Effect of receipt or possession of additional income—Notice to department.
- 55-2-15. Violations of act—Secrecy of applications for assistance—Rules and regulations—Subpoena duces tecum—Grade of offense—Penalties.
- 55-2-16. Appeals to public welfare commission—Aggrieved persons—Finality of decisions—Review of decisions.
- 55-2-17. Violations of act—Charges or fees for representing applicants.
- 55-2-18. Assignment of assistance—Exemption from execution and attachment, and from bankruptcy or insolvency.
- 55-2-19. Public welfare commission—Administration of act—Duties and responsibilities—Rules and regulations—Delegation of authority.
- 55-2-20. Pledge of real property as condition to granting old age assistance—Agreement to reimburse—Filing and recording—Lien—Certificate of amount—Foreclosure—Claims—Collections—Federal government's share—Voluntary conveyance—Disposition of property acquired—Records as confidential—Misdemeanor.
- 55-2-21. Public welfare commission—Powers with respect to federal grants of funds.
- 55-2-22. Fraud in obtaining assistance—Misdemeanor—Fine or imprisonment—Recovery of money.
- 55-2-23. Effect of amendments or repeals of act.
- 55-2-24. Discrimination forbidden—Self-help encouragement.
- 55-2-25. Effect of conflict with Federal Social Security Act.
- 55-2-26. Short title.
- 55-2-27. Advisory council.
- 55-2-28. Investigation of failure to support—Report to prosecuting officer—Assignment to commission of recipient's or applicant's judgment or chose in action—Lien—Collection and payment—Suspension of assistance—Proration.
- 55-2-29. Requirements as to residence—Exceptions—Temporary assistance—Limitations and restrictions—Able-bodied single individuals and married couples—Total amount to be expended.
- 55-2-30. Publication of rules, regulations and general instructions.
- 55-2-31. Allocation of funds—Preferential treatment—Limitation of grants and eligibility—Soliciting prohibited.
- 55-2-32. Appropriation—Limitation on expenditures.
- 55-2-33. Applicant's affidavit of property—Assistance on execution of lien.
- 55-2-34. Enforcement of act—Procedure—Duties of district and county attorneys—Legal proceedings and actions—Extradition.

**55-2-1. Definitions.**—"Applicant" means any person who applies for assistance under the terms of this act.

"Recipient" means any person who is receiving assistance under the terms of this act.

"Assistance" means payments made to or in behalf of needy persons as defined in this act.

"Home owned and occupied" means the house and necessary improvements and appurtenances thereto actually occupied by the applicant or recipient and his immediate family, and the lot upon which such house, necessary improvements and appurtenances are located, but such lot shall not exceed in area the ordinary lot commonly apportioned for home building in the community and territory adjacent to such community in which the applicant or recipient lives. The county or district

board or department of public welfare shall be primarily responsible for determining the size of the lot for the purpose of this act, and said board or department is authorized, with the approval of the state department of public welfare, to permit reasonable exceptions by allowing additional land contiguous to the home for use as a family garden, providing the products of such family garden are used exclusively for the benefit of the recipient. The county or district board or department of public welfare is further authorized, with the approval of the state department of public welfare, to permit reasonable exceptions based upon unusual circumstances in each case when in its judgment such exception will be for the best interest of the state.

**History:** L. 1947, ch. 89, § 1; C. 1943, Supp., 76B-0-1.

**Compiler's Note.**

Former sections 76A-3-1 to 76A-3-54 (Code 1943), which provided for relief to destitute residents, were repealed by Laws 1947, ch. 89, § 27.

**Title of Act.**

An act promoting the public welfare by providing for public assistance to persons in need, stating a declaration of policy, defining duties and powers of the Public Welfare Commission, providing eligibility requirements for public assistance, setting up standards and limitations on amount of assistance, limiting liens on property as a prerequisite to eligibility, defining public assistance, providing for appeals, limiting payment of fees for representing ap-

plicant or recipient, making fraudulent acts a misdemeanor, prohibiting discrimination; and repealing Chapter 3, and Section 76A-1-25, Utah Code Annotated 1943, as amended by Chapters 101 and 103, Laws of Utah 1945; Sections 19-5-68, 19-5-69, 19-5-70, 19-5-71, 19-5-72, 19-5-73, 19-5-74, 19-5-75, 19-5-76, and 19-5-77, Utah Code Annotated 1943; Chapter 12, Title 19, Utah Code Annotated 1943, Chapters 78, 79 and 80, Laws of Utah 1943; Chapter 81, Laws of Utah 1943, as amended by chapter 104, Laws of Utah 1945; and Chapters 102, 103, and 104, Laws of Utah 1945, relating to public assistance.

**Collateral References.**

Social Security and Public Welfare⇒2.  
Work relief, 41 Am. Jur. 705, Poor and Poor Laws § 34.

**55-2-2. Transfer of property by recipient or applicant—Suspension or disqualification for assistance—Determination of period—Exceptions.**—Any transfer of property of a recipient without the knowledge and consent of the public welfare department shall be deemed cause for suspension of assistance payments. The length of time of such suspensions shall be determined on the basis of a fair and reasonable value of the transferred property prorated on the basis of the monthly public assistance allowance established by the department of public welfare for such case, provided that exceptions to this period of suspension may be permitted in unusual situations for persons or families subjected to extraordinarily difficult problems by reason of their particular, special situations. Transfer of property within five years prior to application for public assistance, with the intent to make himself eligible for such assistance, shall disqualify an applicant from receiving public assistance for a period of time determined as herein above set forth.

**History:** L. 1947, ch. 89, § 2; C. 1943, Supp., 76B-0-2; L. 1949, ch. 75, § 1.

**Compiler's Note.**

The 1949 amendment substituted "de-

partment" for "commission" following "public welfare" in first part of section.

**Collateral Reference.**

Social Security and Public Welfare⇒6.

**55-2-3. Purpose of act—Who are persons in need.**—It is the purpose of this act to provide that access to public assistance shall be available to



any person in Utah who is in need. A person is in need and entitled to public assistance if he does not have sufficient resources available for his use within the limitations set forth in this act, and who otherwise qualifies as hereinafter set forth, to maintain a minimum standard of living compatible with health and well-being.

**History:** L. 1947, ch. 89, § 3; C. 1943, Collateral Reference.  
Supp., 76B-0-3. Social Security and Public Welfare↔2.

**55-2-4. Right to public assistance—Affluence not disqualifying applicant—Public assistance on temporary basis.**—Public assistance shall be provided under this act to any needy individual in the state who does not have sufficient resources actually available for his use, to maintain a minimum standard of living compatible with health and well-being. Ownership of money or other tangible property or its equivalent in real or personal property, exclusive of the home owned and occupied by the applicant or recipient, and the furniture and furnishings therein up to but not to exceed \$300.00 for an individual living alone or \$600.00 for two or more persons living together as a family unit, and life insurance policies up to but not to exceed \$500.00 in aggregate cash value for an individual living alone or \$1000.00 for two or more persons living together as a family unit, shall not disqualify an applicant or recipient from receiving assistance under this act; provided, that the income from such property, together with any other income or resources actually available to the applicant or recipient be insufficient to provide him with a minimum subsistence compatible with health and well-being. The public welfare department may grant public assistance on a temporary basis to an applicant or recipient owning or possessing personal or real property or life insurance in excess of the amounts designated herein if and when in its discretion such action will be for the best interest of the recipient and the state. The provisions of this section shall apply to payments from the effective date of this act.

**History:** L. 1947, ch. 89, § 4; C. 1943, Collateral Reference.  
Supp., 76B-0-4. Social Security and Public Welfare↔5.

**55-2-5. Powers and prerogatives of public welfare department—Right to take lien or assignment of property—Foreclosure of lien.**—The public welfare department and any of its representatives are prohibited from taking a lien or assignment of property of any recipient in consideration of any public assistance granted except as hereinafter provided. When it becomes necessary for the public welfare department to invest money in the home of a recipient, either as payment on a mortgage, contract, or for necessary improvements to make the home habitable, then the public welfare department is authorized to take a lien to secure this capital investment. Foreclosure of the lien shall not be sought until the death of the recipient when said recipient is the sole owner of the property or until the death of both husband and wife when the property is held as joint tenants with full rights of survivorship; provided, that when the property is transferred to a third party prior to the death of the recipient or recipients, then foreclosure proceedings shall be sought. When the heir or heirs, devisee or devisees to the property are also recipients of public assistance the public

welfare department may in its discretion waive foreclosure of the lien, if it finds that such action will be for the best interest of the recipient or recipients and the state.

**History:** L. 1947, ch. 89, § 5; C. 1943, **Collateral Reference.**  
**Supp., 76B-0-5.**

Social Security and Public Welfare↔5.

**55-2-6. Right of persons sixty-five years of age or older.**—Public assistance provided under the terms of this act to needy individuals who have attained the age of sixty-five (65) years shall be designated as old age assistance. No person who retires from employment at age 65 or older shall be deprived because of such retirement from the benefits of this act, provided he may otherwise qualify for assistance.

**History:** L. 1947, ch. 89, § 6; C. 1943, **Collateral Reference.**  
**Supp., 76B-0-6.**

Social Security and Public Welfare↔6.

**55-2-7. Characterization of assistance to blind persons or persons with defective vision—Effect of other income and resources.**—Public assistance provided under the terms of this act to needy individuals who have no vision or whose vision is so defective as to prevent performance [of] ordinary activities for which eyesight is essential shall be designated as aid to the blind. In the determination of need the state department of public welfare shall take into consideration any other income and resources of an individual claiming aid to the blind, except that the state department of public welfare may, in making such determination, disregard an amount not to exceed \$50.00 per month of earned income and beginning July 1, 1951, the state department of public welfare shall disregard the first \$50.00 per month of earned income.

**History:** L. 1947, ch. 89, § 7; C. 1943,  
**Supp., 76B-0-7; L. 1951, ch. 91, § 1.**

The bracketed word "of" was inserted by the compiler to correct an apparent error.

**Compiler's Notes.**

The 1951 amendment added the second sentence to this section.

**Collateral Reference.**

Social Security and Public Welfare↔  
 222.

**55-2-8. Characterization of assistance to child under eighteen.**—Public assistance provided under the terms of this act with respect to a needy child under the age of eighteen (18) years who has been deprived of parental support or care by reason of the death, continued absence from home, or mental or physical incapacity of a parent shall be designated aid to dependent children.

**History:** L. 1947, ch. 89, § 8; C. 1943, **Collateral Reference.**  
**Supp., 76B-0-8.**

Social Security and Public Welfare↔  
 194.

**55-2-9. General public assistance—Work projects.**—Public assistance provided under the terms of this act to any needy person other than those designated old age assistance, aid to the blind, or aid to dependent children, may be designated general assistance, and shall include all assistance, financed in whole or in part by the state as hereinafter authorized. General assistance may be provided by payment in cash or kind. General public assistance may include necessary funeral expenses, medical care and sup-

plies, hospitalization, institutional and nursing home care and shelter requirements.

The public welfare commission and the county welfare boards may cooperate with any governmental unit or agency in the establishment of work projects in order to provide employment for employable persons.

History: L. 1947, ch. 89, § 9; C. 1943, Supp., 76B-0-9; L. 1948 (1st S. S.), ch. 9, § 1.

**Compiler's Note.**

The 1948 amendment completely rewrote this section.

**55-2-10. Maximum standards of assistance—Adjustments—Permissible exceptions—Use of recipient's potential resources—Assets precluding assistance.**—The public welfare commission, with the advice of county and district boards of public welfare, shall establish maximum standards of assistance compatible with health and well-being within the limits herein set forth, based upon studies of current living standards and cost, said standard of assistance to be applied uniformly in the determination of the need of all applicants and recipients, adjusted upward, or downward whenever cost of living index as determined by the U. S. Department of Labor shows change sufficient to warrant such adjustment, and shall reflect significant differentials in standards of living and in cost that may exist in the various communities of the state; provided, that budgetary needs for or in behalf of any one case in any one month shall be subject to the following maximums: one-person case, \$60; two-person case, \$110; three-person case, \$130; for additional person in a case, \$17, but the aggregate shall not exceed \$200 in any case; provided further that a recipient of old age assistance may, in addition to the amount received under the budgetary needs as above provided, receive additional income from other sources up to the amount of his personal budget as determined by the department of public welfare. The foregoing maximums shall be adjusted July 1st and January 1st of each year, upward or downward in direct ratio to the increases or decreases in the cost of living as shown by the U. S. Department of Labor cost of living index in the U. S. The maximums heretofore set forth shall be considered standard as of January 1, 1951.

Permissible exceptions to the foregoing maximums for the purpose of meeting the following special costs are:

- (a) Assistance as provided for in section 9, chapter 9, Laws of Utah 1948, First Special Session;
- (b) Institutional and nursing home care;
- (c) Board home care;
- (d) Restaurant meals for those persons without housekeeping facilities;
- (e) Persons temporarily subjected to extraordinarily difficult problems of living by reason of their particular, special situations.

The county or district boards of public welfare may request grants in excess of the foregoing maximums, and the public welfare commission is authorized to grant such requests wherever and whenever investigation discloses that the recipient and his family, because of illness, lack of employment or other unusual circumstances, needs funds in addition to the specified maximum grant to meet its minimum need for food,

clothing, shelter, and fuel. Such special grants shall be reviewed monthly by the commission.

The district or county board may require of any recipient the beneficial use of available potential resources, and may deny assistance to an applicant other than an applicant for old age assistance who has total assets in excess of \$500.

**History:** L. 1947, ch. 89, § 10; C. 1943, Supp., 76B-0-10; L. 1948 (1st S. S.), ch. 9, § 1; 1951, ch. 93, § 1.

**Compiler's Note.**

The 1948 and 1951 amendments made various changes in phraseology.

**Collateral Reference.**

Social Security and Public Welfare↔6.

**55-2-11. Appropriations.**—There is hereby appropriated from the emergency relief fund the sum of \$1,600,000.00 to carry out the increased grants herein provided.

**History:** L. 1951, ch. 93, § 2; C. 1943, Supp., 76B-0-10-1.

**Collateral Reference.**

Social Security and Public Welfare↔4.

**55-2-12. Amount of assistance—Determination.**—The amount of assistance which any recipient shall receive shall be determined with due regard to his requirements and the condition existing in his situation, and to the income and resources available to him from whatever source, and shall be sufficient, when added to the income and resources determined to be actually available to him, to provide him with a minimum subsistence compatible with health and well-being, within the limitations heretofore set forth, provided gifts of not more than \$10.00 per month shall not be taken into consideration in computing old age assistance.

**History:** L. 1947, ch. 89, § 11; C. 1943, Supp., 76B-0-11.

**Collateral Reference.**

Social Security and Public Welfare↔6.

**55-2-13. Payment of public assistance—To whom made—Effect of death of recipient or applicant.**—Whenever it shall appear to be necessary or advisable to do so, the payment of public assistance shall be made to the legal guardian for the use of an applicant or recipient who may be under such mental or physical disability as to be unable to care for himself. When an applicant or recipient is admitted to any county hospital or infirmary in the state of Utah, or who is now a patient of a county hospital or infirmary, the amount of aid which such person is receiving or is entitled to receive shall be paid to the applicant or recipient and he or she may pay such sum or sums after deducting the amount allowed for personal need to such hospital or infirmary during the time such person is a patient therein, and in the event such an applicant or recipient dies while a patient the burial expenses such person would have received as an applicant or recipient shall be paid to the institution which has borne said expense.

**History:** L. 1947, ch. 89, § 12; C. 1943, Supp., 76B-0-12; L. 1951, ch. 94, § 1.

**Collateral Reference.**

Social Security and Public Welfare↔6.

**Compiler's Note.**

The 1951 amendment added the last sentence to this section.

**55-2-14. Effect of receipt or possession of additional income—Notice to department.**—If at any time during the continuance of public assistance the recipient thereof becomes possessed of income or resources in excess of the amount previously reported by him, it shall be his duty to notify the department of public welfare of this fact immediately upon the receipt or possession of such additional income or resources.

History: L. 1947, ch. 89, § 13; C. 1943, Collateral Reference.  
Supp., 76B-0-13.

Social Security and Public Welfare↔6.

**55-2-15. Violations of act—Secrecy of applications for assistance—Rules and regulations—Subpoena duces tecum—Grade of offense—Penalties.**—It shall be unlawful, except for purposes directly connected with the administration of general assistance, old age assistance, aid to the blind, or aid to dependent children, and in accordance with the rules and regulations of the state department, for any person or persons to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any list of or names of, or any information concerning persons applying for or receiving such assistance, directly or indirectly derived from the records, papers, files, or communications of the state or subdivisions or agencies thereof, or acquired in the course of the performance of official duties. The public welfare commission shall have the power to establish rules and regulations governing the custody, use and preservation of the records, papers, files and communications dealing with the administration of public assistance. Said rules and regulations shall have the same force and effect as law. Said information shall be produced in response to a duces tecum properly issued by any federal or state court; provided, however, that the purpose for which the subpoena is sought is directly connected with the administration of public assistance. No subpoena shall be issued by a court asking either for said information or for persons having custody or access to said information, unless the litigation involved in such matters is directly connected with the administration of public assistance. Any person violating any of the provisions of this section or the lawful rules and regulations made hereunder, shall be deemed guilty of a misdemeanor, and shall be fined not more than \$300.00 or shall be imprisoned for not more than six months, or both. Nothing in this section shall be deemed to prohibit the public welfare department or its agents duly authorized for the purpose, from issuing any statistical material and reports of a general character or publishing or causing the same to be published.

History: L. 1947, ch. 89, § 14; C. 1943, Collateral Reference.  
Supp., 76B-0-14.

Social Security and Public Welfare↔6.

**55-2-16. Appeals to public welfare commission—Aggrieved persons—Finality of decisions—Review of decisions.**—Any applicant for or recipient of public assistance under this act aggrieved because of a decision or delay in making a decision shall be entitled to an appeal to the state public welfare commission and shall be afforded reasonable notice and opportunity for a fair hearing. The state department may also upon its own motion review any decision of a local department and may consider and determine any application upon which a decision has not been made by any such

department within a reasonable time. All decisions of the state department shall be final and shall be binding upon and shall be complied with by the local departments.

**History:** L. 1947, ch. 89, § 15; C. 1943, **Collateral Reference.**  
Supp., 76B-0-15. Social Security and Public Welfare☞6.

**55-2-17. Violations of act—Charges or fees for representing applicants.**  
—No person shall make any charge or receive any fee for representing an applicant or recipient of public assistance in any proceeding hereunder, except in criminal proceedings brought pursuant to section 55-2-22 or with respect to any application, whether such fee or charge is to be paid by the applicant or recipient or any other person, which fee is in excess of an amount to be determined by the court or body before whom an applicant or recipient has been represented.

**History:** L. 1947, ch. 89, § 16; C. 1943, **Collateral Reference.**  
Supp., 76B-0-16. 55-2-22" appeared in the act as "Section 21 of this act."

**Compiler's Note.** **Collateral Reference.**  
The reference in this section to "section Social Security and Public Welfare☞6.

**55-2-18. Assignment of assistance—Exemption from execution and attachment, and from bankruptcy or insolvency.**—Public assistance provided under this act shall not be assignable, at law or in equity, and none of the money paid or payable under this act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

**History:** L. 1947, ch. 89, § 17; C. 1943, **Collateral Reference.**  
Supp., 76B-0-17. Social Security and Public Welfare☞6.

**55-2-19. Public welfare commission—Administration of act—Duties and responsibilities—Rules and regulations—Delegation of authority.**—The public welfare commission is charged with the duty and responsibility of determining the policies and directing administration under this act. It shall adopt and enforce all rules and regulations not in conflict with law that it may deem necessary or advisable to perform the duties and functions conferred upon it by law. It may delegate to any of its representatives authority to authorize payments of public assistance under the terms of this act.

**History:** L. 1947, ch. 89, § 18; C. 1943, **Collateral Reference.**  
Supp., 76B-0-18. Social Security and Public Welfare☞6.

**55-2-20. Pledge of real property as condition to granting old age assistance—Agreement to reimburse—Filing and recording—Lien—Certificate of amount—Foreclosure—Claims—Collections—Federal government's share—Voluntary conveyance—Disposition of property acquired—Records as confidential—Misdemeanor.**—(a) Every county welfare board shall require as a condition to granting assistance to any old age recipient, that all real property or interests in real property belonging to the applicant shall be pledged to the board as a guarantee for the reimbursement of assistance received; provided, however, at the time said lien is satisfied there shall be a \$300.00 assessed valuation exemption which shall represent or equal a cash exemption value of \$750.00.

To evidence such pledge the county board shall require each applicant to enter into agreement in form approved by the state department duly acknowledged so as to entitle it to be filed of record in the office of the county recorder by which the applicant shall acknowledge and agree that such property has been assigned as security for the reimbursement of all assistance thereafter received by him.

If the applicant is a married man his wife shall be required to become a party to such agreement for the purpose of releasing her statutory right in such property and such release and joinder shall be as valid and effectual to release such statutory right as if she had joined the applicant in the conveyance of the property to a third person; provided, that when it appears to the county board that the applicant is living apart from his wife and her joinder cannot be obtained, the agreement signed by the applicant alone may be accepted under such regulations as the state department may prescribe.

Upon making a grant of old age assistance the board shall forthwith file with the county recorder of the county in which the applicant resides and with the county recorder of any other county in which the applicant owns real property, a verified copy of such agreement to reimburse and the filing of the same shall have the same effect as a lien by judgment on any real property in which the applicant has any title or interest. All such real property shall from the time of filing of such copy of agreement be and become charged with a lien for all assistance received by the applicant as herein provided, which lien shall have priority over all unrecorded encumbrances. All such instruments shall be recorded in a special lien book kept for such purposes and no fees or costs shall be paid for such filing or recording.

(b) Upon the request of a recipient the board shall execute and file with the county recorder a certificate in form approved by the state department certifying as to the amount of assistance given the recipient to the date of such certificate. The amount so certified shall constitute the entire claim as of the date of such certificate against the real property of the recipient, and any person dealing with the recipient may rely upon such certificate as evidencing the amount of the existing lien against the real estate of the recipient.

The county board shall seek foreclosure of the lien on a recipient's property when the property is transferred to a third party prior to the recipient's death.

Upon the death of any recipient the county board shall present a verified claim for the total amount of all assistance given the recipient to the executor or administrator of the estate of such decedent and the same shall be allowed, approved, filed and paid as other claims in the administration of the estate of such decedent.

All moneys received from such estates or from the foreclosures of such lien shall be reported promptly by the board receiving the same to the state department and the proportion of such money which was paid to the recipient from state funds shall be remitted forthwith to the state department.

The state department shall certify promptly to the state auditor a statement of the amounts received from such recipients or from their estates and deposit such collections with the state treasurer. The federal government shall be entitled to and shall be paid a share of such collections equal to not more than one-half of the amount collected, if required as a condition to federal financial participation, and this amount shall be certified by the state department to the state auditor and treasurer.

The county board shall be empowered to accept voluntary conveyance of real property in lieu of issuance of execution. All real property acquired by the welfare board under the provisions of this act may be disposed of by public or private sale under such rules and regulations as may be prescribed by the state department. The county board is authorized to execute and deliver any and all documents necessary to convey title to any and all such property as may have come into its possession to a purchaser of such property as though such board constituted a corporate entity.

Effective as of July 1, 1947, all old age recipients and all those subsequently applying for assistance who are not exempt as hereinbefore provided, shall be required to enter into agreements to reimburse as hereinabove provided as a condition precedent to receiving any assistance under this act but such agreements shall constitute a charge and lien only for assistance subsequently rendered and not for assistance rendered prior to the execution of such agreements.

(c) All records relating to the administration of public assistance shall be regarded as confidential and shall be protected against misuse by rules and regulations established by the public welfare commission which shall have the same force and effect as law. Any person who violates the confidential nature of public assistance records as provided herein or by the rules and regulations of the public welfare commission, or who assists anyone else in such violation, shall be judged guilty of a misdemeanor and shall be fined not more than \$300 or shall be imprisoned for not more than sixty days, or both.

Neither the provisions of this section or the rules and regulations of the public welfare commission shall prohibit the state department of public welfare or the county department of public welfare from publishing or causing to be published such statistical material or other information of general character as welfare commission may consider to be of public interest. The applicant or recipient and his attorney shall at all times have the right to inspect his application or other personal records after they have been filed.

**History:** L. 1947, ch. 89, § 19; C. 1943, Supp., 76B-0-19; L. 1948 (1st S. S.), ch. 9, § 1.

**Compiler's Note.**

The 1948 amendment rewrote subdivision (a) and made other changes in phraseology of section.

**1. Constitutionality.**

This section insofar as it requires wife

to become a party to agreement if living with husband, but permits agreement signed by husband alone in event husband is living apart from wife and she refuses to sign, is not unconstitutional on ground that it unlawfully discriminates between different classes of husbands and wives. *Wallberg v. Utah Public Welfare Comm.*, — U. —, 203 P. 2d 935.

This section is a general law and does not come within the purview of constitu-



tional provision forbidding special laws changing descent and distribution. (Const. Art. VI, § 26, par. 10.) *Wallberg v. Utah Public Welfare Comm.*, — U. —, 203 P. 2d 935.

This section is constitutional insofar as classification is concerned, notwithstanding that it differentiates between real property owners and nonowners, since there is a reasonable basis for the differentiation. *Wallberg v. Utah Public Welfare Comm.*, — U. —, 203 P. 2d 935.

This section is not unconstitutional on

ground that it is a loan of credit forbidden by Art. VI, § 31, Utah Constitution. *Wallberg v. Utah Public Welfare Comm.*, — U. —, 203 P. 2d 935.

#### Collateral References.

Social Security and Public Welfare⇒6.

Constitutionality, construction, and effect of statute or regulation relating specifically to divulgence of information acquired by public officers or employees, 165 A. L. R. 1302.

**55-2-21. Public welfare commission—Powers with respect to federal grants of funds.**—The public welfare commission shall have authority to receive and expend any funds which may become available from the federal government for public assistance purposes. Said public welfare commission, with the approval of the governor, shall have authority to meet such federal requirements with respect to the administration of such funds as may be set forth as conditions precedent to receiving such federal funds.

History: L. 1947, ch. 89, § 20; C. 1943, Supp., 76B-0-20.

#### Collateral Reference.

Social Security and Public Welfare⇒5.

**55-2-22. Fraud in obtaining assistance—Misdemeanor—Fine or imprisonment—Recovery of money.**—Any person who by any fraudulent device obtains, or attempts to obtain, or aids or abets any person to obtain public assistance to which he is not entitled shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$300 or by imprisonment for not more than six months, or both such fine and imprisonment. Where fraud is disclosed in the obtaining of public assistance, the state department of public welfare shall take all steps to recover all moneys fraudulently obtained.

History: L. 1947, ch. 89, § 21; C. 1943, Supp., 76B-0-21; L. 1949, ch. 75, § 1.

lowing words from the second sentence, "and payments suspended."

#### Compiler's Note.

The 1949 amendment deleted the fol-

#### Collateral Reference.

Social Security and Public Welfare⇒6.

**55-2-23. Effect of amendments or repeals of act.**—All assistance granted under this act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing act that may hereinafter be passed, and no recipient shall have any claim for compensation or otherwise by reason of his assistance being affected in any way by any amending or repealing act.

History: L. 1947, ch. 89, § 22; C. 1943, Supp., 76B-0-22.

#### Collateral Reference.

Social Security and Public Welfare⇒6.

**55-2-24. Discrimination forbidden—Self-help encouragement.**—In the administration of public assistance, there shall be no discrimination based upon racial, religious or political considerations. The public welfare department and county welfare boards shall cooperate with civic and other organizations in assisting recipients and applicants in becoming self-sustaining by encouraging participation in programs of such organizations

which offer rehabilitation and opportunity for self-help activities. In no case shall a person be persuaded to accept public assistance as a substitute for any existing position or program offering a means of self-support.

**History:** L. 1947, ch. 89, § 23; C. 1943, Supp., 76B-0-23; L. 1948 (1st S. S.), ch. 9, § 1.

**Compiler's Note.**

The 1948 amendment added the last two sentences.

**Collateral Reference.**

Social Security and Public Welfare 6.

**55-2-25. Effect of conflict with Federal Social Security Act.**—If any of the provisions of this act respecting the income or the resources of recipients are in conflict with the provisions of the Federal Social Security Act as amended, or any lawful ruling or regulation thereunder, then such provision or provisions of this act shall not apply; but the provisions of the Federal Social Security Act or the rulings or regulations thereunder in conflict therewith shall prevail.

**History:** L. 1947, ch. 89, § 24; C. 1943, Supp., 76B-0-24.

provisions shall be given full force and effect as completely as if the part held unconstitutional had not been included herein."

**Separability Clause.**

Section 25 of Laws 1947, ch. 89 (75B-0-25, Code 1943, Supp.) provided as follows: "If any section or clause of this act shall be held unconstitutional, the remaining

**Collateral Reference.**

Social Security and Public Welfare 2.

**55-2-26. Short title.**—This act shall be known and may be cited as the "Public Assistance Act of 1947."

**History:** L. 1947, ch. 89, § 26; C. 1943, Supp., 76B-0-26.

and 19-5-77, Utah Code Annotated 1943; and Chapter 12 of Title 19, Utah Code Annotated 1943, Chapters 78, 79 and 80, Laws of Utah 1943, Chapter 81, Laws of Utah 1943, as amended by Chapter 104, Laws of Utah, 1945; and Chapters 102, 103, and 104, Laws of Utah 1945, relating to Public Assistance, and all other acts or parts of acts in conflict herewith are repealed."

**Repealing Clause.**

Section 27 of Laws 1947, ch. 89 (76B-0-27, Code 1943, Supp.) provided as follows: "Chapter 3 and Section 76A-1-25 of Utah Code Annotated 1943; as amended by Chapters 101 and 103, Laws of Utah 1945; sections 19-5-68, 19-5-69, 19-5-70, 19-5-71, 19-5-72, 19-5-73, 19-5-74, 19-5-75, 19-5-76,

**55-2-27. Advisory council.**—The legislative council shall serve as an advisory council to the public welfare department.

**History:** L. 1947, ch. 89, § 28; C. 1943, Supp., 76B-0-28.

**Collateral Reference.**

Social Security and Public Welfare 531.

**Effective Date.**

Section 29 of Laws 1947, ch. 89 (76B-0-29, Code 1943, Supp.) provided that act should take effect July 1, 1947.

**55-2-28. Investigation of failure to support—Report to prosecuting officer—Assignment to commission of recipient's or applicant's judgment or chose in action—Lien—Collection and payment—Suspension of assistance—Proration.**—If a recipient or applicant is a deserted, wilfully neglected, divorced or estranged spouse or a child of a deserted, wilfully neglected, divorced or estranged spouse, the public welfare department and the county welfare boards shall investigate why such recipient or applicant is not being supported by said deserting, wilfully neglecting, divorced or

estranged spouse. In the event that the public welfare commission and the county welfare board shall determine that the deserting, divorced or estranged spouse is wilfully failing to render adequate support to the applicant or recipient, it shall be the duty of the public welfare commission and the county welfare board to report the same in writing to the appropriate prosecuting officer.

In cases where applicants or recipients possess any judgment, including judgments for alimony, choses in action, or other legal claims of value, the public welfare commission may require as a condition for granting assistance that such judgment, including judgments for alimony, choses in action, or other legal claims, be assigned to the public welfare commission and in such cases the department shall have a lien against such judgment, including judgments for alimony, choses in action, or other legal claims, to the extent of assistance granted. When such assignment is made a condition of receiving assistance, it shall be the duty of the public welfare commission to diligently pursue the collection of such judgment, including judgments for alimony, choses in action, or other legal claims, provided that the public welfare commission shall not be required to diligently pursue collection of such judgment, including judgments for alimony, choses in action, or other legal claims, where in the judgment of the public welfare commission such action would be detrimental to the public interest. All sums collected in excess of assistance granted shall be paid to the applicant or recipient, and such applicant or recipient shall be suspended from assistance payments until such time as the recipient or applicant shall be again in need. For the purpose of determining need after such collection and payment, the amount needed by the applicant or recipient shall be prorated on the basis of the monthly assistance allowance established by the department of public welfare for such cases. The applicant or recipient must, of course, meet other eligibility requirements at the time of reinstatement.

History: L. 1947, ch. 89, § 30, enacted by L. 1948 (1st S. S.), ch. 9, § 2; C. 1943, Supp., 76B-0-30; L. 1949, ch. 75, § 1.

paragraph and added the second paragraph.

**Collateral Reference.**

**Compiler's Note.**

Social Security and Public Welfare⇒5.

The 1949 amendment rewrote the first

**55-2-29. Requirements as to residence—Exceptions—Temporary assistance—Limitations and restrictions—Able-bodied single individuals and married couples—Total amount to be expended.—**To qualify for assistance under this act an applicant must have resided continuously in the state for one year prior to filing application provided: that the state department of public welfare is authorized under conditions given below to provide assistance to families who have not resided in Utah for one year, for a temporary period up to ninety days, pending the determination of legal settlement or return to place of legal settlement, and the state department of public welfare is authorized to pay the cost of transportation for the return of a family to its place of legal settlement in cases where such action is clearly to the advantage of the state of Utah, and of the individuals concerned.

Assistance may be granted for more than ninety days only if the family is subjected to unusual hardships.

Temporary assistance shall not be granted to any able-bodied single individual or to any able-bodied married couple who have not resided in the state for one year, except in the case of illness or unless individuals are 65 years of age or older. In the event able-bodied single individuals or able-bodied married couples are confronted with extraordinarily difficult problems of hardship, temporary assistance may be granted not to exceed thirty days.

Temporary assistance shall not be granted under any circumstances until after all private sources of aid have been exhausted and the individual or family meets all other eligibility factors for public assistance.

When the individual or family meets the eligibility requirements of a federally-matched program, temporary assistance provided under the provisions of this section may be designated old age assistance, aid to the blind, aid to dependent children, or aid to the disabled.

The total amount to be expended for temporary assistance for the care of individuals who have resided in the state for one year shall not exceed \$2,000 per month for the remaining months of the 1949-51 biennium and shall not exceed \$50,000 for any subsequent biennium. The cost of temporary assistance shall be met from the regular assistance appropriation.

**History:** L. 1947, ch. 89, § 31, enacted by L. 1948 (1st S. S.), ch. 9, § 2; C. 1943, Supp., 76B-0-31; L. 1951, ch. 92, § 1.

this section. All matter, except first part of paragraph one, has been added.

**Collateral Reference.**

**Compiler's Note.**

The 1951 amendment completely rewrote

Social Security and Public Welfare<sup>6</sup>.

**55-2-30. Publication of rules, regulations and general instructions.**—In the administration of the public assistance laws of this state, it shall be the duty of the public welfare commission to print or cause to be printed for the benefit of the legislature and the public in general the rules, regulations and general instructions issued to county welfare boards and supervisory personnel of said department.

**History:** L. 1947, ch. 89, § 32, enacted by L. 1948 (1st S. S.), ch. 9, § 2; C. 1943, Supp., 76B-0-32.

**Collateral Reference.**

Social Security and Public Welfare<sup>5</sup>.

**55-2-31. Allocation of funds—Preferential treatment—Limitation of grants and eligibility—Soliciting prohibited.**—The public welfare commission shall have authority, within the limitations of the funds appropriated to effectuate the purposes of this act, to allocate funds available to the recipients of the respective counties for specified periods of time and to direct and require the county welfare boards to give preferential treatment to the blind and to those persons receiving old age assistance and particularly those required to live alone and those wholly without property or family, such as the public welfare commission shall deem advisable in the public good, within the permissible exceptions clause of section 55-2-10.

The public welfare commission shall have authority to limit the grants and eligibility and shall by every means possible remove from public assistance rolls dependent children and all persons not over 65 years of age physically able to earn in whole or in part their livelihood. The public welfare commission shall require that no member of its staff or no local welfare worker shall solicit or otherwise encourage any person to make application for public assistance, except under unusual circumstances.

**History:** L. 1947, ch. 89, § 33, enacted by L. 1948 (1st S. S.), ch. 9, § 2; C. 1943, Supp., 76B-0-33.

55-2-10" appeared in the act as "Section 10 of this Act."

**Collateral Reference.**

Social Security and Public Welfare⇒5.

**Compiler's Note.**

The reference in this section to "section

**55-2-32. Appropriation—Limitation on expenditures.**—There is appropriated to the state department of public welfare, from the emergency relief fund, for the purpose of supplementing the appropriation made in section 1, chapter 154, Laws of Utah, 1947, for "welfare assistance" the sum of \$500,000.00 or so much thereof as may be necessary for the fiscal year ending June 30, 1948, and the sum of \$800,000.00 or so much thereof as may be necessary for the fiscal year ending June 30, 1949, which sums shall be expended to provide sufficient funds, when added to the appropriation for "welfare assistance" heretofore provided by section 1, chapter 154, Laws of Utah, 1947, to complete the biennium ending June 30, 1949.

The public welfare department shall confine the expenditure for each fiscal period for welfare assistance within the appropriation allowed by this section and by section 1, chapter 154, Laws of Utah, 1947, and this shall be mandatory and not directory, and the expenditure of funds therefrom shall not exceed, for any three months period, beginning July 1, 1948, the sum of \$1,790,000.00, plus any unexpended balances from any such period may be carried into subsequent periods and expended if necessary.

**History:** L. 1947, ch. 89, § 34, enacted by L. 1948 (1st S. S.), ch. 9, § 2; C. 1943, Supp., 76B-0-34.

**Collateral Reference.**

Social Security and Public Welfare⇒5.

**55-2-33. Applicant's affidavit of property—Assistance on execution of lien.**—An applicant or recipient for assistance shall be required prior to receiving any assistance from the county welfare board or the public welfare department to execute under oath upon a form provided by the public welfare department, an affidavit describing all property, both real and personal, owned by the applicant or recipient.

Notwithstanding the provisions of section 55-2-4, any applicant may by the execution of a lien in accordance with the provisions, other than those of the first paragraph of section 55-2-19, be granted assistance under this act without disposing of any of such property, if he shall otherwise qualify for assistance and if, in the opinion of the public welfare commission, the best interest of the state would be satisfied thereby.

**History:** L. 1947, ch. 89, § 35, enacted by L. 1948 (1st S. S.), ch. 9, § 2; C. 1943, Supp., 76B-0-35.

**Compiler's Note.**

The references in this section to "section 55-2-4" and "section 55-2-19" appeared

in the act as "Section 4 of this Act" and "Section 19 of this Act" respectively. **Collateral Reference.**  
Social Security and Public Welfare<sup>6</sup>.

**55-2-34. Enforcement of act—Procedure—Duties of district and county attorneys—Legal proceedings and actions—Extradition.**—The state department of public welfare may take such legal action as may be necessary to enforce the provisions of the Public Assistance Act of 1947, and at the request of the state department of public welfare or of any county welfare board, it shall be the duty of the district attorney and/or the county attorney to represent the state department of public welfare or any county welfare board in any such civil action. Upon the district attorney and/or the county attorney being advised of the violation of any provision of the Public Assistance Act of 1947, or of section 76-15-1, Utah Code Annotated 1953, the district attorney and/or the county attorney shall institute such legal proceedings, including a request for initiation of proceedings for extradition, and action as shall be necessary to enforce said act.

**History:** L. 1947, ch. 89, § 36, enacted by L. 1949, ch. 75, § 2; C. 1943, Supp., 76B-0-36.

76-15-1, Utah Code Annotated 1953" appeared in the act as "section 103-13-1, Utah Code Annotated 1943."

**Compiler's Note.**

The reference in this section to "section

**Collateral Reference.**

Social Security and Public Welfare<sup>5</sup>.

## CHAPTER 3

### PUBLIC WORKS PROGRAM

- Section 55-3-1. Public projects or service subject to industrial recovery program.  
55-3-2. Construed as cumulative.  
55-3-3. Estimate of cost and revenue—Contracts—Advertising for bids—Bond issue—Interest—Sale—Payment.  
55-3-4. Officers' signature on bond—Sufficiency.  
55-3-5. Enactment authorizing issuance of bonds—Covenant and restrictions.  
55-3-6. Application of proceeds.  
55-3-7. Value of service rendered political subdivision by project paid from current funds.  
55-3-8. Additional bonds.  
55-3-9. Revenue refunding bonds.  
55-3-10. Rates for service to be reasonable and uniform—May be revised.  
55-3-11. Actions by holders of bonds to compel performance of required duties.  
55-3-12. Operating costs and expenses lien on revenues.  
55-3-13. Publication of enactment authorizing bond issue—Petition for election—Special election.  
55-3-14. Improvement projects—Revenue bonds—Procedure—Division and application of revenue.  
55-3-15. Fiscal year for segregation and application of revenue.  
55-3-16. Supervision by government agencies limited.  
55-3-17. Project accounts—Annual reports—Filing.  
55-3-18. Contents of ordinance or enactment.  
55-3-19. Construed so not to impair valid liens.  
55-3-20. Construction of act.  
55-3-21. Separability clause.  
55-3-22. Effective date.  
55-3-23. Termination of act.  
55-3-24. Declaring an emergency to exist—Policy of state.  
55-3-25. Agencies, officers, employees—Appointment—Powers, duties, compensation fixed by governor.

- 55-3-26. Expenditures from emergency relief fund and authorized.
- 55-3-27. Termination.
- 55-3-28. Program of public works.
- 55-3-29. Construction and financing—Acquiring, selling and leasing property—  
Rules and regulations, penalty for violation.
- 55-3-30. Powers of political subdivisions, singly or in combination, to participate in “National Industrial Recovery Act.”
- 55-3-31. Authorizing governor to pledge faith and credit of state.
- 55-3-32. Right-of-way over state land—Acquiring—Revision to state on abandonment.
- 55-3-33. Contracts—Provisions to be included.
- 55-3-34. Public works costing less than \$10,000.
- 55-3-35. Emergency relief fund available.
- 55-3-36. Short title.
- 55-3-37. Terms defined.
- 55-3-38. Validation of bonds issued by public bodies for public works projects.
- 55-3-39. Short title.
- 55-3-40. Definitions.
- 55-3-41. Validating bonds issued by public bodies for public works projects.
- 55-3-42. Validating proceedings heretofore taken.
- 55-3-43. Payments to the United States, when and how made.

**55-3-1. Public projects or service subject to industrial recovery program.**—That any county, city or incorporated town in the state of Utah may purchase or construct a waterworks system, water supply system, sewer system, sanitary disposal equipment and appliances, ice plant, gas or electric plants and/or distribution systems, hospitals, toll bridges, slaughter houses, and any other public project or service which may lawfully be owned and operated or managed by such counties, cities or incorporated towns, and including any public works or improvements named in the National Industrial Recovery Act or any other federal acts which have been or may be enacted for the purpose of purchasing, constructing, improving, enlarging, extending and/or repairing any public project or service, as an object upon which the moneys appropriated under such acts may be expended or loaned, either within or without the limits of such county, city or incorporated town now or hereafter owning and operating any such project or service may improve, enlarge, extend or repair the same, as in this act provided.

**History:** L. 1933 (2nd S. S.), ch. 22, § 1; 1935, ch. 74, § 1; C. 1943, 76A-2-1.

**Compiler's Note.**

The 1935 amendment added the following phrase “or any other federal acts which have been or may be enacted for the purpose of purchasing, constructing, improving, enlarging, extending and/or repairing any public project or service.”

**Title of Act.**

An act providing a means for the purchase, construction, improvement, enlargement, extension and repair by any county, city or incorporated town of a waterworks system, sewer system, sanitary disposal equipment and appliances, ice plant, gas or electric plants and/or distribution systems, hospitals, toll bridges, slaughter houses, and any public project or service which may lawfully be owned and oper-

ated or managed by such counties, cities or towns, including any public work or improvement named in the National Industrial Recovery Act as an object upon which the moneys appropriated under such act may be expended or loaned; also to provide for the issuance by revenue bonds to cover the cost thereof and to provide a means of payment therefor from the net revenues of such projects or services; providing a means of segregating the revenue from existing projects or services and any additions, extensions, betterments or repairs thereto; providing a means for requiring bond elections to be held in connection therewith; providing conditions and regulations with respect to the purchase, construction and operation of such projects or services and the manner of issuance, terms and conditions of such bonds; and affording a means of obtaining assistance from the Federal Emergency

Administration of Public Works in the carrying out of such projects.

**1. Validity of ordinance.**

Ordinance which authorized issuance of bonds for improvement of waterworks and for construction of such extensions or enlargements and making such other improvements and repairs to such system

as might appear necessary or advisable was not objectionable as permitting diversion of funds to another purpose contrary to Const. Art. XIV, § 5. *Fjeldsted v. Ogden City*, 84 U. 302, 35 P. 2d 825.

**Collateral Reference.**

Social Security and Public Welfare↔2.

**55-3-2. Construed as cumulative.**—This act shall be construed as a cumulative statutory authority for the purposes herein named and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intent of this act to create an additional and alternate statutory method for the purposes herein named.

**History:** L. 1933 (2nd S. S.), ch. 22, § 2; C. 1943, 76A-2-2.

**Collateral Reference.**

Social Security and Public Welfare↔2.

**55-3-3. Estimate of cost and revenue—Contracts—Advertising for bids.—Bond issue—Interest—Sale—Payment.**—Whenever the governing body of any county, city or incorporated town by at least two-thirds vote shall determine to proceed under this act to purchase or construct any project or utility covered by section 55-3-1, it shall first cause a comprehensive estimate to be made of the cost of purchase or construction and operation and of the net operating revenue thereof, by a competent engineer approved by the state engineer of Utah and having no connection with any manufacturer or seller of machinery, pipe, or other equipment, to be used in said project or in the installation thereof or with any person or corporation engaged in the same business and shall, by ordinance, or other proper legislative enactment passed by at least two-thirds vote of the governing body provide for the issuance of revenue bonds under the provisions of this act, which ordinance or other legislative enactment shall set forth a brief description of the contemplated improvement, the estimated cost thereof, the amount, rate of interest, time and place of payment in connection with the issuance of the bonds; provided, that the payment of principal on all bonds issued under the provisions of this act shall be made in equal and annual installments, beginning not later than three years after the date of issue of such bonds. Such bonds shall bear interest at not more than six per centum (6%) per annum, payable semi-annually and shall be payable at such times and places, not exceeding thirty-five (35) years from their date, as shall be prescribed in the ordinance or other legislative enactment providing for their issuance. Such bonds may be sold at either public or private sale upon such terms as the governing body of such county, city or incorporated town shall deem for the best interest of such county, city or incorporated town, but in no event shall any of such bonds be sold on a basis to yield more than six per centum (6%) per annum from the date of sale to the date of average maturity of the bonds sold. Except when sold or disposed of to the United States of America, or to some agency thereof or created by the Congress of the United States, such bonds shall be sold only after advertisement and upon bids, at least ten days notice, by



newspaper advertisement in some newspaper having general circulation in such county, city or incorporated town to be given. They shall not be subject to any limitations or provisions of other statutes of the state now or hereafter enacted in conflict herewith. The principal of and interest upon such bonds shall be payable solely from the net revenues derived from the operation of the project or service for the purchase or construction of which they are issued; provided, however, that bonds issued under this act to improve, enlarge, extend or repair an existing county or municipally owned project or service may be made payable solely from the net revenues of such improvement, extensions or repairs as hereinafter provided. In no case shall the principal or interest of such bonds be made a charge upon the taxable revenues of such county, city or incorporated town. No bond or coupon issued pursuant to this act shall constitute an indebtedness of such county, city or incorporated town within the meaning of any state constitutional provision or statutory limitation. It shall be plainly stated on the face of each such bond and coupon that the same has been issued under the provisions of this act and that it does not constitute an indebtedness of such county, city or incorporated town within any state constitutional provision or statutory limitation. No contract in excess of \$5,000 for the construction, improvement or enlargement of any such service or project or any part thereof under the provisions of this act, shall be awarded except to a responsible bidder, after advertisement for bids at least twice, and at least ten days prior to the opening of bids in a newspaper having general circulation in such county, city or incorporated town.

History: L. 1933 (2nd S. S.), ch. 22, § 3; C. 1943, 76A-2-3.

#### Compiler's Note.

The reference in this section to "section 55-3-1" appeared in the act as "Section 1 of this act."

#### 1. Validity of ordinance.

Strictly mathematical adherence to statute held not required so that ordinance providing for 29 annual payments in certain sum and last payment of different sum was not objectionable on ground that annual sums should be equal. *Fjeldsted v. Ogden City*, 84 U. 302, 35 P. 2d 825.

#### 2. Validity of proposed bond issue.

Proposed bond issue of city to improve and repair waterworks system in an amount in excess of taxes for current year and payable out of waterworks revenue, although valid with respect to limitation of indebtedness by reason of Const. Art. XI, § 5 (d) as amended, was

debt, and hence invalid where issuance was not authorized by taxpaying electors as required by Const. Art. XIV, § 3. *Wadsworth v. Santaquin City*, 83 U. 321, 28 P. 2d 161. (Straup, C. J., and Hanson, J., dissenting.)

#### 3. Advertising for bids.

City was not required to advertise and call for bids for construction of electric light and power system under special fund doctrine, this statute having no application, since improvement was not made under this act. *Utah Power & Light Co. v. Provo City*, 94 U. 203, 74 P. 2d 1191. (Moffat, J., and Folland, C. J., dissenting.)

#### Collateral References.

Social Security and Public Welfare—6.

Contract for services as within requirement of submission of bids as condition of public contract, 142 A. L. R. 542.

**55-3-4. Officers' signature on bond—Sufficiency.**—In case any officer whose signature appears on said bonds and coupons attached thereto shall cease to be such officer before the delivery of the bonds to the purchaser, such signature shall nevertheless be valid and sufficient for all purposes

to the same effect as if he had remained in office until the delivery of the bonds.

**History:** L. 1933 (2nd S. S.), ch. 22, § 4; **Collateral Reference.**  
C. 1943, 76A-2-4. Social Security and Public Welfare

**55-3-5. Enactment authorizing issuance of bonds—Covenants and restrictions.**—The ordinance or other legislative enactment authorizing the issuance of bonds under this act may contain such covenants and restrictions upon the issuance of additional revenue bonds thereafter as may be deemed necessary or advisable for the issuance or payment of the bonds thereby authorized and as may thereafter be issued.

**History:** L. 1933 (2nd S. S.), ch. 22, § 5;  
C. 1943, 76A-2-5.

**55-3-6. Application of proceeds.**—All moneys received from any such bonds shall be used solely for the purchase, construction, improvement, enlargement, extension or repair of the project or service for which issued, including any architectural, engineering, legal and other expenses incidental thereto; provided, however, that such moneys may be used also to advance the payment of interest on such bonds during the first three (3) years following the date of such bonds, and provided further, however, that any unexpended balance of the proceeds of the sale of any such bonds remaining after the completion of the project or service for which such bonds were issued shall be paid immediately into the bond and interest sinking fund for such bonds, and the same shall be used only for the payment of the principal of the bonds, or, in the alternative, to acquire outstanding bonds of the general issue from which the proceeds were derived by purchase of such bonds at a price (exclusive of accrued interest) not exceeding the face amount thereof. Any bonds so acquired by purchase shall be cancelled and shall not be reissued.

**History:** L. 1933 (2nd S. S.), ch. 22, § 6; **Collateral Reference.**  
C. 1943, 76A-2-6. Social Security and Public Welfare

**55-3-7. Value of service rendered political subdivision by project paid from current funds.**—The reasonable cost and value of any service rendered to any county, city or incorporated town by the project or service may be charged against the county, city or incorporated town as the case may be, and may be paid for periodically as the service accrues from the current funds and when so paid shall be accounted for in the same manner as other revenues of the project or service.

**History:** L. 1933 (2nd S. S.), ch. 22, § 7;  
C. 1943, 76A-2-7.

**55-3-8. Additional bonds.**—Any county, city or incorporated town purchasing, constructing, improving, enlarging or repairing any project or service pursuant to the provisions of this act, may, at the time of the authorization of such bonds for any such purpose, provide in the authorizing ordinance or other legislative enactment for additional bonds for other extensions and permanent improvements, which additional bonds may be issued and be negotiated from time to time as such proceeds for such purpose may be necessary. Such bonds, when so negotiated, shall have equal standing with the bonds of the same issue.

History: L. 1933 (2nd S. S.), ch. 22, § 8; Collateral Reference.  
C. 1943, 76A-2-8. Social Security and Public Welfare⇒4.

**55-3-9. Revenue refunding bonds.**—Where a county, city or incorporated town has outstanding any bonds issued under the provisions of this act, it may thereafter issue and negotiate new bonds on such terms as the governing body shall deem advisable for the purpose of providing for the payment of any such outstanding bonds. Such new bonds shall be designated "Revenue Refunding Bonds" and shall be secured to the same extent and shall have the same source of payment as the bonds which have been thereby refunded.

History: L. 1933 (2nd S. S.), ch. 22, § 9;  
C. 1943, 76A-2-9.

**55-3-10. Rates for service to be reasonable and uniform—May be revised.**—Rates for services furnished by any project or service as described in section 55-3-1 hereof shall be reasonable and uniform in respect to class at all times. They may be fixed precedent to the issuance of the bonds. Such rates shall be sufficient to provide for the payment of the interest upon and principal of all such bonds as and when the same become due and payable, to create a bond and interest sinking fund therefor, to provide for the payment of the expenses of administration and operation and such expenses for the maintenance of the project or service, necessary to preserve the same in good repair and working order, to build up a reserve for depreciation, to build up a reserve for improvements, betterments and extensions other than those necessary to maintain the same in good repair and working order, and to pay the interest on and principal of any other bonds or obligations outstanding and issued in connection with the purchase, construction, repair or improvement of the project or service. Such rates may be fixed and revised from time to time so as to produce these amounts, and the governing body may covenant and agree in the ordinance or other legislative enactment authorizing the issuance of such bonds and on the face of each bond at all times to maintain such rates for services furnished by the project or service as shall be sufficient to provide for the foregoing, but not in excess of a reasonable rate for the service rendered.

History: L. 1933 (2nd S. S.), ch. 22, § 10; Compiler's Note.  
C. 1943, 76A-2-10.

The reference in this section to "section 55-3-1" appeared in the act as "Section 1."

**55-3-11. Actions by holders of bonds to compel performance of required duties.**—Any holder of a bond or bonds, or of any of the coupons of the bond or bonds of a county, city or incorporated town issued under this act, may, either in law or in equity, by suit, action, mandamus or other proceeding, enforce and compel performance of all duties required by this act, including the making and collection of sufficient rates or charges for services and facilities afforded by the project or service and the application of the income and revenue thereof.

History: L. 1933 (2nd S. S.), ch. 22, § 11; Collateral Reference.  
C. 1943, 76A-2-11. Social Security and Public Welfare⇒4.

**55-3-12. Operating costs and expenses lien on revenues.**—The cost of operating and maintaining the project or service and the expenses of any betterments or replacements to keep the same in good repair and working order shall be a first lien and charge upon the revenues or income to be derived from the operation of the project or service.

**History:** L. 1933 (2nd S. S.), ch. 22, § 12;  
C. 1943, 76A-2-12.

**55-3-13. Publication of enactment authorizing bond issue—Petition for election—Special election.**—After the ordinance or other legislative enactment authorizing the issuance of the bonds has been adopted, it shall be published once in a newspaper published in such county, city or incorporated town, or if there be no newspaper published in such county, city or incorporated town, then by posting in at least three public places in such county, city or incorporated town, and if no petition is filed with the clerk of the governing body of the county, city or incorporated town, as the case may be, and as hereinafter provided, within twenty-one days after the publication of such ordinance or other legislative enactment, then, after the expiration of such twenty-one days, such ordinance or other legislative enactment shall be in full force and effect. But if, within said period of twenty-one days, a petition signed by voters, qualified to vote thereupon at least equal to fifteen per cent in number of the voters voting for the presiding officer of the governing body of such county, city or incorporated town at the last preceding county, city, or incorporated town election and asking that the question of issuing such bonds for the purpose of purchasing, constructing or improving and extending the project or service be submitted to the voters of such county, city or incorporated town, is filed with the clerk of the governing body thereof, such governing body shall call a special election in the manner provided by law for bond elections upon bonds issuable under the provisions of article 3, chapter 7, Title 10, Utah Code Annotated 1953. If it appears that the majority of the voters voting upon such question at such an election, vote in favor of issuing such bonds for such purpose, the said ordinance or other legislative enactment shall be in full force and effect in such county, city or incorporated town; but if a majority of the votes cast are against issuing such bonds for such purpose, then such county, city or incorporated town shall proceed no further under the ordinance or other legislative enactment; provided, however, that if an election on such question has been held prior to the adoption and approval of said ordinance or other legislative enactment, and if it appears that a majority of the voters voting upon such question at such election voted in favor of issuing such bonds for such purpose, then said ordinance or other legislative enactment shall be in full force and effect upon its adoption and publication or posting.

**History:** L. 1933 (2nd S. S.), ch. 22, § 13;  
1935, ch. 74, § 1; C. 1943, 76A-2-13.

**Compiler's Notes.**

The 1935 amendment made various changes in phraseology.

The reference in this section to "article

3, chapter 7, Title 10, Utah Code Annotated 1953" appeared in the act as "article 3, chapter 1, title 15, Revised Statutes of Utah, 1933."

**Collateral Reference.**

Social Security and Public Welfare—4.

**55-3-14. Improvement projects—Revenue bonds—Procedure—Division and application of revenue.**—Whenever any county, city or incorporated town now or hereafter owning and operating a project or service as described in section 55-3-1 hereof, whether constructed under the provisions of this act or not, and shall desire to construct improvements and betterments thereto, it may issue revenue bonds under the provisions of this act to pay for same, and the procedure therefor including the fixing of rates and the computation of the amounts thereof shall be the same as in this act provided for the issuance of bonds for the purchase or construction of such a project or service in a county, city or incorporated town which has not theretofore owned and operated such a project or service; provided, however, that in the ordinance or other legislative enactment declaring the intention for issuing the bonds and providing details in connection therewith, the governing body of the county, city or incorporated town, as the case may be, may provide, find and declare, in addition to the other requirements set out in the statute, the value of the then existing project or service and the value of the betterments or improvements proposed to be constructed, and the revenue derived from the entire project or service, when the contemplated betterments and improvements are completed, may then be divided according to such values and so much of the revenue as is in proportion to the value of such betterments and improvements as against the value of the previous existing project or service as so determined, be set aside and used first and to such extent as may be necessary for the purpose of paying the revenue bonds issued for such betterments or improvements, and providing a sinking fund and reserve to discharge the same, or such governing body may determine such other proper method of division of the revenues of the completed system, plant or project between the previously existing system, plant or project, and the entire system, plant or project when the contemplated betterments and improvements are completed, as the circumstances may require and set aside that portion so determined as derived from the said betterments or improvements for the purpose of paying off such bonds and for such sinking fund and reserve, and such revenue shall be deemed to be income derived exclusively from the betterments and improvements. Nothing herein contained shall be deemed to limit the power of any such municipal corporation to pledge or apply other revenues derived from such project or utility to the retirement of such bonds or the provision of such sinking fund or reserve to such extent as they may lawfully so do.

**History:** L. 1933 (2nd S. S.), ch. 22, § 14; C. 1943, 76A-2-14.

secured by revenue derived from improvements. *Fjeldsted v. Ogden City*, 84 U. 302, 35 P. 2d 825.

**Compiler's Note.**

The reference in this section to "section 55-3-1" appeared in the act as "Section 1."

**1. Security for bond issue.**

Part of ordinance for issuance of bonds for improvement of waterworks providing that city would maintain insurance on system for payment of bonds held objectionable and invalid, since bonds were

**2. Allocation of revenue.**

Allocation in ordinance based upon construction of this section in which "so much of the revenue as is in proportion to the value of such betterments and improvements as against the value of the previous existing project or service as so determined" was omitted and word "may" substituted therefor was proper.

Fjeldsted v. Ogden City, 84 U. 302, 35 **Collateral Reference.**  
P. 2d 825. Social Security and Public Welfare↔4.

**55-3-15. Fiscal year for segregation and application of revenue.**—For the purpose of this act, the fiscal year of a county, city or incorporated town in the segregation and application of the income and revenues derivable from any project or service as described in section 55-3-1 hereof may begin on the first or fifteenth day of any month of the calendar year.

**History:** L. 1933 (2nd S. S.), ch. 22, § 15; **Compiler's Note.**  
C. 1943, 76A-2-15.

The reference in this section to "section 55-3-1" appeared in the act as "Section 1."

**55-3-16. Supervision by government agencies limited.**—Rates charged for services furnished by any project or service purchased, constructed, improved, enlarged, extended or repaired under the provisions of this act shall not be subject to supervision or regulation by any state bureau, board, commission, department or other like instrumentality or agency thereof, and it shall not be necessary for any such county, city or incorporated town operating under the provisions of this act to obtain any franchise or other permit from any such state authority in order to construct, improve, enlarge, extend or repair any such project or service. Provided, however, that the functions, powers and duties of the state board of health shall remain unaffected by this act and, provided further, that such county, city or incorporated town, shall be subject to regulations by the public utilities commission of Utah as to any service rendered by it without its boundaries in competition with and [an] existing public utility rendering like service except in the case of water works systems and water supply systems.

**History:** L. 1933 (2nd S. S.), ch. 22, § 16; **Compiler's Note.**  
C. 1943, 76A-2-16.

The bracketed word "an" was inserted by the compiler of the 1943 Code.

**55-3-17. Project accounts—Annual reports—Filing.**—Each county, city or incorporated town purchasing or constructing a project or service under the provisions of this act shall keep project accounts that conform to the requirements of the public utilities commission of Utah for utilities rendering similar service, and on or before the 15th day of April of each calendar year, shall file with the state auditor and the public utilities commission of Utah an annual report of such project, similar to annual reports required by the public utilities commission to be filed by similar utilities.

**History:** L. 1933 (2nd S. S.), ch. 22, § 17; **Collateral Reference.**  
C. 1943, 76A-2-17. Social Security and Public Welfare↔6.

**55-3-18. Contents of ordinance or enactment.**—The ordinance or other legislative enactment authorizing the issuance of bonds under this act may make provision for the registration thereof in such manner as the governing body of the issuing authority shall deem best. Such ordinance or other legislative act may make provision for calling any of the bonds for payment before maturity under such terms and conditions as shall be deemed best. All other details in connection with the issuance of the

bonds, the collection of rates or charges for services afforded by the project or service, the maintenance of a separate system of accounting in connection therewith if deemed necessary, and the segregation and separation of the gross income into separate and special funds, and any other matters in connection with the authorization and issuance of the bonds not specifically referred to herein may be covered by the governing body of the county, city or incorporated town in the ordinance or other legislative enactment providing for the construction or improvement of the project or service and authorizing the issuance of the bonds.

History: L. 1933 (2nd S. S.), ch. 22, **Collateral Reference.**  
 § 18; C. 1943, 76A-2-18. Social Security and Public Welfare⇒6.

**55-3-19. Construed so not to impair valid liens.**—Nothing in this act shall be construed as authorizing any county, city or incorporated town to impair or commit a breach of any valid lien or contract created or entered into by it, the intention hereof being to authorize the pledging, setting aside and segregation of the net revenues of the project or service, or the part thereof allocable to any improvement or extension as hereinbefore provided, consistent with outstanding obligations of the county, city or incorporated town.

History: L. 1933 (2nd S. S.), ch. 22, § 19;  
 C. 1943, 76A-2-19.

**55-3-20. Construction of act.**—This act, being necessary for and to secure the public health, safety, convenience and welfare of the counties, cities and incorporated towns of the state of Utah, shall be liberally construed to effect the purposes hereof.

History: L. 1933 (2nd S. S.), ch. 22, § 20;  
 C. 1943, 76A-2-20.

**55-3-21. Separability clause.**—The invalidity of any section, sentence, clause, paragraph or portion of this act shall not affect the validity of the remainder of this act.

History: L. 1933 (2nd S. S.), ch. 22, **Collateral References.**  
 § 21; C. 1943, 76A-2-21. Statutes⇒64(2).  
 59 C.J. Statutes § 224.

**55-3-22. Effective date.**—It being deemed by reason of the existing state of the laws of the state of Utah that counties, cities and incorporated towns in Utah are not able to obtain loans from the federal emergency administration of public works for the purpose of purchase, construction, improvement, enlargement, extension or repair of such projects or services as are named and referred to in section 55-3-1, the legislature deems that an emergency exists and that the public health, service, convenience and welfare of the state, counties, cities and incorporated towns requires that this act become effective immediately upon its passage and approval, and it is hereby provided that this act shall become effective upon its passage and approval.

History: L. 1933 (2nd S. S.), ch. 22, **Compiler's Note.**  
 § 22; C. 1943, 76A-2-22. The reference in this section to "section 55-3-1" appeared in the act as "Section 1 of this Act."

**55-3-23. Termination of act.**—This act shall cease to be in effect, except to complete projects theretofore entered into under the provisions hereof, at such time as the governor shall by proclamation or the legislature shall by joint resolution declare that the emergency recognized by section 1, chapter 21, Laws of Utah, 1933, Second Special Session, has ended.

**History:** L. 1933 (2nd S. S.), ch. 22, § 23; 1935, ch. 74, § 1; C. 1943, 76A-2-23.

**Collateral References.**

Social Security and Public Welfare↔3.

**Compiler's Note.**

The 1935 amendment made several material changes in text.

General unemployment or other unusual conditions, power of state or municipality to appropriate funds or incur indebtedness, in excess of poor fund, for relief of distress due to, 87 A. L. R. 371.

**55-3-24. Declaring an emergency to exist—Policy of the state.**—A national and state emergency productive of widespread unemployment and disorganization of industry, which burdens state and national commerce, affects the public welfare, and undermines the standards of living of the people of this state and nation, is hereby declared to exist. It is hereby declared to be the policy of this state to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources, and for such purposes to cooperate in every feasible way with the United States government in a program of public works construction and maintenance.

**History:** L. 1933 (2nd S. S.), ch. 23, § 1; C. 1943, 76A-2-24.

**Title of Act.**

An act declaring an emergency to exist and conferring upon the governor and the political subdivisions of the state extraordinary powers to carry on and administer a program of public works and to make use of aid available under the "National Industrial Recovery Act"; empowering the governor to establish agencies and to accept and utilize certain state and other officers in carrying out the purposes of this act and to make expenditures of

certain funds; also giving the governor power to pledge the faith and credit of the state for certain purposes; and permitting municipal corporations, public subdivisions and public bodies, singly or in combination with others, to participate under the "National Industrial Recovery Act" and empowering the governor to promulgate rules and regulations and providing a penalty for violation of such rules and regulations.

**Collateral Reference.**

Social Security and Public Welfare↔2.

**55-3-25. Agencies, officers, employees—Appointment—Powers, duties, compensation fixed by governor.**—To effectuate the purposes of this act, the governor is hereby authorized, so far as he finds it necessary:

- (a) To establish agencies;
- (b) To accept and utilize voluntary and uncompensated services;
- (c) To appoint officers and employees; and
- (d) To utilize state and other public officers and employees, and, with the consent of the United States government, officers and employees of the United States government.

For such purposes, the governor may prescribe the authority, duties, and responsibilities and fix the compensation of any officers and employees so appointed.



The governor may delegate any of his functions and powers under this act to such officer, agents, and employees as he designates or appoints.

History: L. 1933 (2nd S. S.), ch. 23, § 2; Collateral Reference.  
C. 1943, 76A-2-25.

Social Security and Public Welfare↔5.

**55-3-26. Expenditures from emergency relief fund authorized.**—The governor may make expenditures out of the moneys now in or hereafter accruing to the emergency relief fund, so far as are necessary to carry out the provisions of this act, or may delegate the power to make such expenditures to any person designated by him.

History: L. 1933 (2nd S. S.), ch. 23, § 3;  
C. 1943, 76A-2-26.

**55-3-27. Termination.**—When the governor by proclamation or the legislature by joint resolution shall declare that the emergency recognized by section 55-3-24, has ended, the governor shall not contract any new liabilities under the provisions of this act and the functions of any agencies theretofore established hereunder may be transferred to such departments of the state as the governor shall designate.

History: L. 1933 (2nd S. S.), ch. 23, § 4;  
1935, ch. 73, § 1; C. 1943, 76A-2-27.

The reference in this section to "section 55-3-24" appeared in the act as "section 1."

**Compiler's Notes.**

The 1935 amendment rewrote the text of the first part of this section.

**55-3-28. Program of public works.**—The governor, personally or by officers or agencies appointed by him, shall prepare a comprehensive program of public works, which shall, in his discretion, include among other things the following:

(a) Construction, repair, and improvement of public highways and parkways, public buildings, and any publicly owned instrumentalities and facilities;

(b) Conservation and development of natural resources, including control, utilization, and purification of waters, prevention of soil erosion, development of water and electrical power, transmission of electrical energy, and construction and improvement of reservoirs, canals, irrigation works, and pumping plants and flood control;

(c) Any projects of the character heretofore constructed or carried on either directly by the public authority or with public aid to serve the interests of the general public;

(d) Any project (other than those included in the foregoing classes) of any character heretofore eligible for loans under subsection (a) of section 201 of the Act of the Congress of the United States, known as the Emergency Relief and Construction Act of 1932, as amended, and paragraph (3) of such subsection (a), or any other act of the Congress of the United States calling for expenditure of moneys in this state for public works, shall for such purposes be held to include loans for the construction or completion of hospitals the operation of which is partly financed from public funds, and of reservoirs, canals, irrigation works and pumping plants;

(e) Construction, reconstruction, alteration, or repair under public regulation or control of low-cost housing and slum-clearance projects;

(f) The governor shall make a survey and propose a program to enable residents of the state of Utah to receive benefits of the provisions of section 208 of the National Industrial Recovery Act, and any other act of the Congress of the United States calling for the expenditure of moneys in this state for public works.

**History:** L. 1933 (2nd S. S.), ch. 23, § 5; 1935, ch. 73, § 1; C. 1943, 76A-2-28.

**Compiler's Note.**

The 1935 amendment enlarged the provisions of subsecs. (d) and (f).

**Collateral References.**

Social Security and Public Welfare—5.

Identity of master, as regards rule of respondeat superior, of one loaned

or hired out by general employer in connection with WPA project, 136 A. L. R. 525.

Responsibility for injury or damage by or to W. P. A. worker or other workmen employed as a means of reducing unemployment, 120 A. L. R. 1148.

Tort liability of municipality or other governmental subdivision in connection with poor relief activities, 134 A. L. R. 762.

**55-3-29. Construction and financing—Acquiring, selling and leasing property—Rules and regulations, penalty for violation.**—With a view to increasing employment quickly the governor is authorized and empowered, personally or through agencies designated by him:

(a) To construct, finance or aid in the construction or financing of any public works project included in the program of public works above provided for;

(b) To borrow any and all moneys deemed desirable by him from the United States or any of its agencies, upon any terms required or allowed;

(c) To accept any and all grants or loans made to this state by the United States government for expenditures or use on such program of public works;

(d) To accept on behalf of the state or any governmental body and hold in trust for such body any aid granted or loaned by the United States government to be used in the execution of such program of public works;

(e) To acquire by purchase or by exercise of the power of eminent domain, any real or personal property in connection with the construction of any state project as a part of such program of public works;

(f) To sell any security acquired or any property so constructed or acquired or to lease any such property with or without the privilege of purchase;

(g) The governor is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this act and any violation of any such rule or regulation shall be punishable by fine of not to exceed \$1,000 or imprisonment not to exceed one year, or both;

(h) Generally, to act in all ways and exercise all powers necessary or convenient to the execution of such program of public works or to secure proper and full cooperation with the United States government under any Act of Congress calling for expenditure of moneys in this state for public works.

History: L. 1933 (2nd S. S.), ch. 23, § 6; Collateral Reference.  
C. 1943, 76A-2-29. Social Security and Public Welfare 5.

**55-3-30. Powers of political subdivisions, singly or in combination, to participate in "National Industrial Recovery Act."**—Notwithstanding any other provision of this act, and notwithstanding any other limitation as to purpose or use, or time of repayment otherwise provided by law, the governor, on behalf of the state of Utah, and any county, city, or town, and the board of education of any school district and any irrigation or water conservation district, drainage district, water supply district, sewer district, sanitary district, flood control district and other special improvement district in this state may with the approval of the governor or his authorized agency contract with, accept, grant, lease property or borrow money from the United States or the federal emergency administrator of public works or any other agency designated by the President of the United States, pursuant to the provisions of Title II of the National Industrial Recovery Act or in accordance with any other Act of Congress of the United States and may execute and deliver its notes, bonds or other evidences of indebtedness for moneys so borrowed maturing at such time or times either within or subsequent to the year in which such obligations are incurred as may be agreed upon with the United States or such administrator or other agency.

By and with the consent of the governor or his authorized agencies the above mentioned political subdivisions and public bodies may jointly or together with other persons or corporations combine by incorporation or otherwise and cooperate for the purpose of constructing and financing any work or project by means of funds borrowed from the United States or any of its agencies under the National Industrial Recovery Act or any other Act of the Congress of the United States.

History: L. 1933 (2nd S. S.), ch. 23, § 7;  
C. 1943, 76A-2-30.

**55-3-31. Authorizing governor to pledge faith and credit of state.**—The governor for the purposes of this act is hereby authorized in his discretion to obligate and pledge the faith and credit of the state for the purpose of guaranteeing payment to the United States or its agencies of interest upon any obligation of cities, towns, counties, school districts, or irrigation or water conservation districts or public corporations of Utah; provided, that in deciding to extend any aid or grant hereunder to any school district, county or municipality, the governor may consider whether action is in process or in good faith assured therein reasonably designed to bring the ordinary current expenditures thereof within the prudently estimated revenues thereof; and provided, however, that the faith or credit of the state shall not be pledged nor the state obligated to pay or guarantee payment of any interest on any of the aforesaid bonds or obligations whatever unless the project for which such obligation was incurred or bonds issued shall have been first approved by the governor or his authorized agency, nor shall the state be obligated or bound to pay or guarantee any part of the interest of any such obligation above that portion which at the time the obliga-

tion arose, in the opinion of the governor, the state of Utah must assume in order to provide for the amortization and payment of the obligation incurred for the construction or purchase of such project within the period required under the National Industrial Recovery Act, or any other act of the Congress of the United States; and further provided, that the obligation of the state of Utah for payment of interest under the obligations aforesaid shall not require payment during any year upon all obligations guaranteed by the state as above provided of any sum in excess of \$400,000.

**History:** L. 1933 (2nd S. S.), ch. 23, § 8; 1935, ch. 73, § 1; C. 1943, 76A-2-31.

**Collateral References.**

Social Security and Public Welfare<sup>5</sup>.

**Compiler's Note.**

The 1935 amendment inserted the words "or any other act of Congress of the United States" immediately preceding the second proviso.

General unemployment or other unusual conditions, power of state or municipality to appropriate funds or incur indebtedness, in excess of poor fund, for relief of distress due to, 87 A. L. R. 371.

**55-3-32. Right-of-way over state land—Acquiring—Reversion to state on abandonment.**—Whenever in connection with the construction of any highway or public works project under this act, it is necessary to acquire right-of-way over or through any property or tracts of land owned or controlled by this state, it shall be the duty of the proper official of this state having control of such property or tracts of land, with the approval of the governor and the attorney general of the state, and without any expense whatsoever to this state, to perform any acts and to execute any agreements necessary to grant the rights-of-way required. If at any time the land or the property which is the subject of the agreement or conveyance ceases to be used for the purposes of the highway or public works, the title in and the jurisdiction over said land or property shall automatically revert to this state, and the agreement shall so provide.

**History:** L. 1933 (2nd S. S.), ch. 23, § 9; C. 1943, 76A-2-32.

**Collateral Reference.**

Social Security and Public Welfare<sup>5</sup>.

**55-3-33. Contracts—Provisions to be included.**—All contracts let for construction projects included in such program of public works, and all loans and grants pursuant to the provisions of this act or entering into the construction of any such project, shall contain such provisions as are necessary to insure:

(1) That no convict labor shall be employed on any such project;

(2) That (except in executive, administrative and supervisory positions), so far as practicable and feasible, no individual directly employed on any such project shall be permitted to work more than thirty hours in any one week;

(3) That all employees shall be paid just and reasonable wages which shall be compensation sufficient to provide, for the hours of labor as limited, a standard of living in decency and comfort;

(4) That in the employment of labor in connection with any such project, preference shall be given, where they are qualified, to ex-service men with dependents, who are bona fide residents of Utah, and then to citizens of the United States and aliens who have declared their inten-

tion of becoming citizens, who are bona fide residents of this state; provided, that these preferences shall apply only where such labor is available and qualified to perform the work to which the employment relates; and

(5) That the maximum of human labor shall be used in lieu of machinery wherever practicable and consistent with sound economy and public advantage and all such contracts entered into in pursuance of this act shall specify the minimum percentage of such human labor which may be required under the terms of such contract.

**History:** L. 1933 (2nd S. S.), ch. 23, § 10; **Collateral Reference.**  
C. 1943, 76A-2-33. Social Security and Public Welfare 6.

**55-3-34. Public works costing less than \$10,000.**—During the period this act shall be in effect the provisions of existing statutes requiring public works to be constructed by contract shall not prevent the construction of public works by cities, towns, counties, or school districts without the letting of contracts where the cost is less than \$10,000, or, in case of first and second class cities or counties, less than \$15,000. Nothing contained in this section shall be construed, however, to waive the requirements of existing statutes as to advertising for bids for purchase of materials.

**History:** L. 1933 (2nd S. S.), ch. 23,  
§ 11; C. 1943, 76A-2-34.

**55-3-35. Emergency relief fund available.**—The governor is hereby authorized to use any or all moneys now in or hereafter accruing to the emergency relief fund, not otherwise appropriated, for the purpose of carrying out and administering the provisions of this act.

**History:** L. 1933 (2nd S. S.), ch. 23, should take effect on approval. Approved  
§ 12; C. 1943, 76A-2-35. July 26, 1933.

**Effective Date.**

Section 13 of Laws 1933 (2nd S. S.), ch.  
23 (76A-2-36, Code 1943) provided that act

**Collateral Reference.**

Social Security and Public Welfare 4.

**55-3-36. Short title.**—This act may be cited as “The 1935 Validating Act.”

**History:** L. 1935, ch. 75, § 1; C. 1943, and confirming bonds and other instru-  
76A-2-37. ments or obligations heretofore issued by  
public bodies of this state for public works  
projects.

**Title of Act.**

An act validating, ratifying, approving

**55-3-37. Terms defined.**—The following terms, wherever used or referred to in this act, shall have the following meaning:

(a) “Public body” means the state of Utah, and any county, city, town or school district of the state.

(b) “Bonds” includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on

specific revenues, income or property of a public body, or including all instruments or obligations payable from a special fund.

History: L. 1935, ch. 75, § 2; C. 1943, Collateral Reference.  
76A-2-38.

Social Security and Public Welfare—4.

**55-3-38. Validation of bonds issued by public bodies for public works projects.**—All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the federal emergency administrator of public works for the purpose of financing or aiding the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

History: L. 1935, ch. 75, § 3; C. 1943, Collateral Reference.  
76A-2-39.

Social Security and Public Welfare—4.

**55-3-39. Short title.**—This act may be cited as “The 1937 Validating Act.”

History: L. 1937, ch. 93, § 1; C. 1943,  
76A-2-40.

**Title of Act.**

An act validating, ratifying, approving and confirming bonds heretofore issued and certain proceedings heretofore taken

for the purpose of financing or aiding in financing any work, undertaking, or project by any public body to which any loan or grant has been made or is under contract to be made by the United States of America through the Federal Emergency Administrator of Public Works.

**55-3-40. Definitions.**—The following terms, wherever used or referred to in this act, shall have the following meaning:

(a) The term, “public body,” shall mean the state of Utah and any county, city, town or school district of the state.

(b) The term “bonds,” shall mean bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

History: L. 1937, ch. 93, § 2; C. 1943, Collateral Reference.  
76A-2-41.

Social Security and Public Welfare—4.

**55-3-41. Validating bonds issued by public bodies for public works projects.**—All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the federal emergency administrator of public

works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power, other than constitutional, of such public body or the governing board or commission or officers thereof to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities, other than constitutional, in such proceedings or in such sale, execution or delivery, and notwithstanding such governing body or commission or officers may not have been elected, appointed or qualified for the offices they purported to hold, and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

History: L. 1937, ch. 93, § 3; C. 1943, 76A-2-42.

**55-3-42. Validating proceedings heretofore taken.**—All proceedings which have been taken prior to the date this act takes effect, for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant is under contract to be made by the United States of America through the federal emergency administrator of public works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of bonds, and for the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power, other than constitutional, of such public body or the governing body or commission or officers thereof to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities, other than constitutional, in such proceedings, and notwithstanding that such governing body may not have been elected, appointed or qualified for the offices they purported to hold.

History: L. 1937, ch. 93, § 4; C. 1943, 76A-2-43.

**55-3-43. Payments to the United States, when and how made.**—If upon a sale of state land or its products the state of Utah derives a direct profit as the result of work on the land sold, or on land the products of which are sold, done or to be done under a project carried on pursuant to an Act of Congress entitled: "An act for the relief of unemployment through the performance of useful public work, and for other purposes," approved March 31, 1933, one-half of such profit from such sale of land or one-half the proceeds of the sale of such products, or such lesser amount as may be sufficient, shall be applied to or toward reimbursing the United States government for monies expended by it under such act for the work so done, to the extent and at the rate of one dollar per man per day for the time spent in such work, but not exceeding in aggregate three dollars per acre. The state land board shall fix and determine the amount of such profit or proceeds. Such one-half part of such profit or proceeds, as the case may be, shall be paid over to the state treasury by

the land board, or by any other authorized agency making the sale, and shall be retained in the treasury in a special fund to be known as the emergency conservation work fund. Upon the completion of the sale, the state land board is hereby authorized to settle with the proper federal authority an account fixing the amount due the United States government and to notify the state auditor who shall draw a warrant or warrants on account of the amount so fixed, as funds accrue in said emergency conservation work fund payable to the United States, and the state treasurer shall pay such warrant or warrants out of the emergency conservation work fund or other funds designated by the land board, until the account of the United States government, with respect to such sale, becomes liquidated. This section shall not be construed to authorize the sale of state lands or products but applies only to a sale now or hereafter authorized by other provisions of law. This section is enacted to procure a continuance of emergency conservation work within the state, under such Act of Congress.

**History:** L. 1935, ch. 100, § 1; C. 1943, 76A-2-44.

**Title of Act.**

An act to provide for reimbursing the United States government for the expense of emergency conservation work if, and when, by a sale of land or products, the state derives a profit from such work.

**Effective Date.**

Section 2 of Laws 1935, ch. 100 (76A-2-44, Code 1943) provided that act should take effect on approval. Approved March 23, 1935.

**Collateral Reference.**

Social Security and Public Welfare

## CHAPTER 4

### SELF-HELP COOPERATIVES

- Section 55-4-1. Self-help cooperative board.  
 55-4-2. Chairman, secretary-treasurer—Director—Personnel—Compensation  
 55-4-3. Duties of board—Funds—Production and exchange of goods and services.  
 55-4-4. Office—Meetings.  
 55-4-5. Legal services.

**55-4-1. Self-help cooperative board.**—The state self-help cooperative board shall be composed of the members of the commission of public and industrial development.

**History:** L. 1935, ch. 72, § 1; 1937, ch. 91, § 1; 1939, ch. 89, § 1; 1941 (1st S. S.), ch. 27, § 1; C. 1943, 76A-4-1.

**Compiler's Note.**

The amendments of 1937, 1939 and 1941 completely rewrote the text of this section.

**Title of Act.**

An act creating a self-help cooperative board; providing for the appointment of an executive director of said board; delegating to said board the duty of preparing means of employment in production and distribution of goods and/or services for

all cooperative self-help associations which are organized on a nonstock, nonprofit basis, and have personnel that will work in harmony with the spirit of this act; defining the purposes of the cooperative self-help associations; and providing for the execution of such purposes.

**Cross-Reference.**

Commission of publicity and industrial development, 63-3-1 et seq.

**Collateral References.**

Associations

7 C.J.S. Associations § 2.