

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 715 (as enrolled)
House Bill 5189 (as enrolled)
Sponsor: Senator Gary Peters (S.B. 715)
Representative Andrew Raczkowski (H.B. 5189)
Senate Committee: Local, Urban and State Affairs
House Committee: Commerce

PUBLIC ACT 248 of 2001
PUBLIC ACT 247 of 2001

Date Completed: 1-28-02

RATIONALE

The Emergency Management Assistance Compact is a mutual aid agreement and partnership between the states in managing natural or man-made emergencies and disasters. The compact is a legal agreement that provides for mutual cooperation in implementing emergency-related assistance procedures, testing or other training using equipment and personnel, and providing reimbursement. While some disasters rise to a level sufficient to bring Federal aid and involvement, supplementary out-of-state assistance can be valuable, especially if Federal assistance is unavailable or inadequate. Since its approval by Congress in 1996, 42 states and two territories have entered into the compact, the most recent two states being New York and New Jersey in the wake of the World Trade Center attacks of September 11. To join, the legislature of a state must ratify the language of the compact. The language contains procedures for requesting assistance between states and commanding disparate personnel within a given disaster area. It also provides limited immunity from tort liability to personnel from one state who are rendering aid in another state. Many people believe that joining the compact should put Michigan in a better position to offer or accept assistance during times of crisis.

CONTENT

The bills created new acts to enter Michigan into the Interstate Emergency Management Assistance Compact, which does the following:

- **Provides for mutual assistance between the party states in managing any emergency or disaster declared by the governor of the affected state.**
- **Provides for mutual cooperation in emergency-related exercises outside of actual declared emergency periods.**
- **Requires each party state to formulate procedural plans and programs for interstate cooperation in performing its responsibilities under the compact.**
- **Requires each party state to afford the emergency forces of another state the same powers, duties, rights, and privileges afforded in its own state, except that of arrest unless specifically authorized.**
- **Specifies that no party state or its officers or employees is liable on account of any act or omission in good faith while providing aid or using equipment or supplies.**
- **Requires each party state to provide compensation to injured members of its emergency forces and death benefits to representatives of members killed while rendering aid, as if the injury or death were sustained within its own state.**
- **Requires a state rendering aid in another state to be reimbursed from the state receiving assistance for any loss or damage to equipment or expense incurred while providing services.**
- **Requires party states to work out plans for the orderly evacuation and interstate reception of civilians.**

The compact provides that a state may withdraw by enacting a repealing statute, but a withdrawal must not take effect until 30 days after the governor of that state has given notice in writing to the governors of the other party states.

The bills require the Legislature to review the proposed acts every five years after their enactment.

Senate Bill 715 deals with personnel and House Bill 5189 deals with equipment used in emergencies or disasters. Senate Bill 715 states, "It is the intent of the legislature to read this act in conjunction with House Bill No. 5189", and House Bill 5189 states, "It is the intent of the legislature to read this act in conjunction with Senate Bill No. 715". In addition, the bills were tie-barred to each other.

A more detailed description of the compact follows.

Purpose

The purpose of the compact is to provide for mutual assistance between the states entering into the compact in managing any emergency or disaster declared by the governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack.

The compact also must provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, occurring outside of actual declared emergency periods. Senate Bill 715 provides that mutual assistance in the compact may include the use of the states' National Guard forces.

General Implementation

The compact provides that each party state recognizes that, "...many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies". Each state also recognizes

that, "...there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist."

The compact also states, "The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of an emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood."

Further, the compact provides, "On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact."

Party State Responsibilities

Responsibilities. It is the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in performing its responsibilities under the compact. In formulating and carrying out these plans, the party states, to the extent practical, must do the following:

- Review individual state hazard analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technical hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency, or enemy attack.
- Review party states' individual emergency plans and develop a plan that will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.
- Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

- Assist in warning communities adjacent to or crossing the state boundaries.
- Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources (both human and material).
- Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.
- Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of these responsibilities.

Requests for Assistance. The authorized representative of a party state may request assistance of another party state by contacting its authorized representative. The provisions of this agreement apply only to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. A verbal request must be confirmed in writing within 30 days. Requests must provide the following:

- A description of the emergency service function for which assistance is needed (such as fire service, law enforcement, emergency medical, transportation, communications, public works, engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue).
- The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.
- The specific place and time for staging the assisting party's response and a point of contact at that location.

There must be frequent consultation between state officials having assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the U.S. government, with free exchange of information, plans, and resource records relating to emergency capabilities.

Limitations

Any party state requested to render mutual aid or conduct exercises and training for

mutual aid must take such action as necessary to provide and make available the resources covered by the compact, provided that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for that state.

Each party state must afford to the emergency forces of another party state, while operating within its state limits under the compact, the same powers, duties, rights, and privileges afforded in its own state, except that of arrest unless specifically authorized. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated only after an emergency or disaster is declared by the governor of the affected state, or exercises or training for mutual aid are begun, and will continue as long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the affected state, whichever is longer.

Licenses and Permits

The compact provides that whenever any person holds a license, certificate, or other permit issued by any party state containing evidence that qualifications for professional, mechanical, or other skills are met, and when such assistance is requested by a receiving state, the person will be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving that skill to meet a declared emergency or disaster, subject to the limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

Evacuation

The compact requires the party states and the emergency management or services directors of the various jurisdictions where an incident requiring evacuations might occur, to work out and maintain plans for the orderly evacuation and interstate reception of portions of the civilian population as a result of any emergency or disaster large enough to warrant evacuation. The evacuation plans must include the following:

- The manner of transporting the evacuees.

- The number of evacuees to be received in different areas.
- The manner in which food, clothing, housing, and medical care will be provided.
- The registration of the evacuees.
- The provision of facilities for the notification of relatives or friends.
- The forwarding of the evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors.

The plans must provide that the party state receiving evacuees and the state from which they come will mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for the evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. After the disaster or emergency ends, the party state from which the evacuees came must assume the responsibility for the ultimate support of their repatriation.

Military

The compact specifies that nothing in it will authorize or permit the use of military force by the National Guard of a state outside of that state in any emergency for which the President is authorized by law to call into Federal service the militia, or for any purpose for which use of the army or air force would be prohibited, under Section 1385 of Title 18 of the United States Code, in the absence of express statutory authorization.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills make Michigan the 43rd state to join the Emergency Management Assistance Compact. The compact allows states to send disaster relief assistance quickly and legally to other states. The resources available for response to disasters and emergencies vary widely from state to state, and sometimes Federal assistance is inadequate or unavailable. The compact allows for a quick response to disasters using the unique resources and expertise possessed by member states to fill such shortfalls.

The compact also establishes a firm legal foundation for mutual assistance efforts. It reduces confusion, worry, and unnecessary requests for disaster relief. States ask for assistance only when they need it and can cover the costs. In addition, states are not forced to send any assistance they cannot provide. Requests for assistance under the compact are legally binding, contractual arrangements under which states asking for assistance are responsible for reimbursing the costs of the states providing assistance, and are liable for those states' personnel. These arrangements reduce the legal and financial burdens of sending aid. For example, during the widespread wildfires in Florida in 1998, 10 states sent assistance through the compact. Assistance included fire fighters, fire engines, tanker trucks, helicopters, cargo aircraft, and specialized equipment. Under the terms of the compact, Florida reimbursed the states \$3 million for the assistance sent through the compact.

In addition, the compact is designed to facilitate emergency assistance services through intergovernmental coordination and cooperation. The compact offers planning and training programs to prepare for disasters and to let neighboring states know each state's capabilities and resources. States are responsible for reviewing potential hazards, drafting plans, developing standard operating procedures, and conducting exercises and simulating responses to emergencies.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bills will have an indeterminate fiscal impact on the State. The costs of formulating plans and the costs of affording emergency services to another state cannot be determined at this time.

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.