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BILL



ANALYSIS

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House Bill 5801 (as passed by the House)
Sponsor: Representative Ray A. Franz
House Committee: Local, Intergovernmental, and Regional Affairs
Senate Committee: Local Government and Elections

Date Completed: 12-5-12

CONTENT

The bill would create a new statute to allow Michigan to enter into the State and Province Emergency Management Assistance Memorandum of Agreement, which provides for mutual assistance in emergency and disaster management among participating jurisdictions (certain U.S. states and Canadian provinces). The Agreement does the following:

- Allows participating jurisdictions to consider specified preparedness activities.
- Prescribes procedures for a request for assistance by a participating jurisdiction.
- Requires a participating jurisdiction to afford an assisting jurisdiction's emergency personnel the same treatment it affords its own human resources when they are performing emergency services.
- Requires a participating jurisdiction that requests licensed assistance to recognize a person's professional licensure, certification, or permit issued by another jurisdiction.
- Provides that a person or entity rendering aid in another jurisdiction is an agent of the requesting jurisdiction for tort liability and immunity purposes, and is immune from liability.
- Authorizes participating jurisdictions to enter into supplemental agreements with each other.
- Requires each participating jurisdiction to provide workers'

compensation and death benefits to emergency workers injured or killed while rendering aid to another participating jurisdiction as if the injury or death were sustained in its own jurisdiction.

- Requires a jurisdiction receiving aid to reimburse the assisting jurisdiction upon request for any loss or damage or expense incurred in rendering aid.
- Prescribes procedures for withdrawing from the Agreement.

Declarations

The Agreement states the following:

- "This act expresses the shared interests of the participating jurisdictions to establish a memorandum of agreement to provide for the possibility of mutual assistance among the jurisdictions entering into this agreement in managing any emergency or disaster when the affected jurisdiction or jurisdictions ask for assistance, whether arising from natural disaster, technological hazard, man-made disaster, or civil emergency aspects of resource shortages."
- "The effective utilization of resources of the participating jurisdictions essential to the safety, care, and welfare of the people in the event of any emergency or disaster is the underlying principle on which all articles of this agreement are understood."
- "The participating jurisdictions recognize the importance of comprehensive and

coordinated civil emergency preparedness, response, and recovery measures for natural disaster, technological hazard, human-induced disaster, or civil emergency aspects of resource shortages."

- "The participating jurisdictions further recognize the benefits of coordinating their separate emergency preparedness, response, and recovery measures with that of participating jurisdictions for those emergencies, disasters, or hostilities affecting or potentially affecting one or more of the participating jurisdictions in the United States or in Canada."
- "The participating jurisdictions further recognize that regionally based emergency preparedness, response, and recovery measures will benefit all jurisdictions in the United States and Canada, and best serve their respective national interests in cooperative and coordinated emergency preparedness."

Article I: Purposes of Agreement

The Agreement provides that it is made and entered into by and among the jurisdictions that enact or adopt it. For purposes of the Agreement, "participating jurisdictions" initially may include any or all of the following:

- The states of Illinois, Indiana, Ohio, Michigan, Minnesota, Montana, North Dakota, Pennsylvania, New York, and Wisconsin.
- The Canadian provinces of Alberta, Manitoba, Ontario, and Saskatchewan.

Other states and provinces may become a participating jurisdiction. For that purpose, the term "states" means the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions. "Province" means the 10 political units of government within Canada.

The Agreement states that its purpose is to provide for the possibility of mutual assistance among the participating jurisdictions in managing any emergency or disaster when the affected participating jurisdiction or jurisdictions ask for assistance, whether arising from natural disaster, technological hazard, manmade

disaster, or civil emergency aspects of resource shortages.

The Agreement also provides for the process of planning mechanisms among the agencies responsible for mutual cooperation, including civil emergency preparedness exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by participating jurisdictions or their subdivisions during emergencies, with such actions occurring outside emergency periods.

Article II: Intergovernmental Cooperation

The Agreement states, "Each participating jurisdiction entering into this agreement recognizes that many emergencies may exceed the capabilities of a participating jurisdiction and that intergovernmental cooperation is essential in such circumstances. Each participating jurisdiction further recognizes that there will be emergencies that may require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency because few, if any, individual jurisdictions have all the resources they need in all types of emergencies or the capability of delivering resources to areas where emergencies exist."

The Agreement provides that, on behalf of the participating jurisdictions, the legally designated official who is assigned responsibility for emergency management is responsible for formulation of the appropriate interjurisdictional mutual aid plans and procedures necessary to implement the Agreement, and for recommendations to the participating jurisdiction concerned with respect to the amendment of any statutes, regulations, or ordinances required for that purpose.

Article III: Preparedness & Requests for Assistance

The Agreement contains a statement describing preparedness and the need for participating jurisdictions to plan together in advance of disasters and emergencies.

The Agreement allows the participating jurisdictions to consider the following preparedness activities:

- Sharing participating jurisdictions' available hazard analyses, and determining those potential disasters and emergencies the jurisdictions might suffer jointly.
- Sharing existing emergency operations plans, procedures, and protocols.
- Sharing policies and procedures for resource mobilization, tracking, demobilization, and reimbursement.
- Considering joint planning, training, and exercises.
- Assisting with alert, notification, and warning for communities adjacent to or crossing participating jurisdiction boundaries.
- Considering procedures to facilitate the movement of evacuees, refugees, civil emergency personnel, equipment, or other resources into or across boundaries, or to a designated staging area when it is agreed that such movement or staging will facilitate civil emergency operations by the affected or participating jurisdictions.
- To the extent authorized by law, providing for temporary suspension of any statutes or ordinances that impede the implementation of responsibilities described in this section of the Agreement.

The authorized representative of a participating jurisdiction may request assistance of another participating jurisdiction by contacting its authorized representative. Requests must include the following information:

- A description of the emergency service function for which assistance is needed and of the mission or missions, including fire services, emergency medical, transportation, communications, public works, and 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 of the assisting party's response and a point of contact at the location.

The Agreement provides that there will be periodic consultation among the authorized representatives who have assigned emergency management responsibilities.

Article IV: Operational Control

The Agreement states, "It is recognized that any participating jurisdiction that agrees to render mutual aid or conduct exercises and training for mutual aid will respond as soon as possible. It is also understood that the participating jurisdiction rendering aid may withhold or recall resources to provide reasonable protection for itself, at its discretion."

The Agreement provides that, to the extent authorized by law, each participating jurisdiction will afford to the personnel of the emergency contingent of any other participating jurisdiction while operating within its jurisdiction limits under the terms and conditions of the Agreement and under the operational control of an officer of the requesting participating jurisdiction, the same treatment as it affords similar human resources of the participating jurisdiction in which they are performing emergency services.

Staff comprising the emergency contingent 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 jurisdiction receiving assistance. These conditions may be activated, as needed, by the jurisdiction that is to receive assistance or upon commencement of exercise or training for mutual aid, and continue as long as the exercise or training is in progress, the emergency or disaster remains in effect, or loaned resources remain in the receiving jurisdiction, whichever is longest. The receiving jurisdiction is responsible for informing the assisting jurisdiction when services are no longer required.

Article V: Recognition of Qualifications

The Agreement provides that, if a person holds a license, certificate, or other permit

issued by any participating jurisdiction evidencing the meeting or qualifications for professional, mechanical, or other skills, and when the receiving jurisdiction requests licensed assistance, that person will be considered to be licensed, certified, or permitted by the requesting jurisdiction to render aid involving such skill to meet an emergency or disaster, to the extent allowed by law and subject to limitations and conditions prescribed by the requesting jurisdiction by executive order or otherwise.

Article VI: Liability & Immunity

Under the Agreement, any person or entity of a participating jurisdiction rendering aid in another participating jurisdiction pursuant to the Agreement is considered an agent of the requesting participating jurisdiction for tort liability and immunity purposes. Any person or entity rendering aid in another participating jurisdiction is not liable on account of any act or omission of good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection to the aid. Good faith does not include willful misconduct, gross negligence, or recklessness.

Article VII: Supplementary Agreements

The Agreement states, "Because it is probable that the pattern and detail of the agreement for mutual aid among 2 or more participating jurisdictions may differ from that among the participating jurisdictions that are party to this memorandum of agreement, this agreement contains elements of a broad base common to all participating jurisdictions, and nothing in this agreement precludes any participating jurisdiction from entering into supplementary agreements with another jurisdiction or affects any other agreements already in force among participating jurisdictions."

Supplementary agreements may include provisions for evacuation and reception of injured and other people and the exchange of medical, fire, public utility, reconnaissance, welfare, transportation, and communications personnel, equipment, and supplies.

Article VIII: Workers' Compensation & Death Benefits

The Agreement requires each participating jurisdiction to provide, in accordance with its own laws, for the payment of workers' compensation and death benefits to injured members of the emergency contingent of that participating jurisdiction and to representatives of deceased members of the deployed contingent if they sustain injuries or are killed while rendering aid to another participating jurisdiction pursuant to the Agreement in the same manner and on the same terms as if the injury or death were sustained in their own jurisdiction.

Article IX: Reimbursement

Under the Agreement, any participating jurisdiction rendering aid to another pursuant to the Agreement must be reimbursed by the receiving jurisdiction, if requested, for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with those requests. An aiding jurisdiction may assume all or part of any loss, damage, expense, or other cost, or loan equipment or donate services to the receiving jurisdiction without charge or cost. At least two participating jurisdictions may enter into supplementary agreements establishing a different allocation of costs among those jurisdictions. Benefits under Article VIII are not reimbursable under Article IX.

Article X: Adoption of & Withdrawal from Agreement

The Agreement provides that it is effective upon its execution or adoption by any one state and one province subject to approval or authorization by the U.S. Congress and the enactment of any state or provincial legislation required for the effectiveness of the arrangement.

Additional jurisdictions may participate in the Agreement upon executing or adopting it.

Any participating jurisdiction may withdraw from the arrangement, but withdrawal will not take effect until 30 days after the governor or premier of the withdrawing

jurisdiction has given written notice to the governors or premiers of all other participating jurisdictions. The action will not relieve the withdrawing jurisdiction from obligations assumed under the Agreement before the effective date of the withdrawal.

Duly authenticated copies of the Agreement in the French and English languages and of any supplementary agreements must be deposited with each of the participating jurisdictions when they are approved.

Article XI: Constitutionality & Applicability

The Agreement provides that it is to be construed so as to effectuate the purposes stated in Article I. If any provision of the Agreement is declared unconstitutional or invalid or inapplicable to any person or circumstances, or if the applicability of the Agreement to any person or circumstances is held invalid, the validity of the remainder of the Agreement to that person or those circumstances and the applicability of the Agreement to other people and circumstances will not be affected.

Article XII: Validity

The Agreement provides that the validity of the provisions consented to in it are not affected by any insubstantial difference in form or language adopted by the various states and provinces.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. Any costs that could be incurred under the bill's provisions would depend wholly on whether, and to what extent, emergency services were provided to other units of government (or by an outside unit of government to Michigan) and the nature of any reimbursement associated with providing such services.

Fiscal Analyst: Bruce 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.