

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S3/9/99 S3/18/99

A Bill

Act 913 of 1999
HOUSE BILL 1655

5 By: Representative Simon
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7

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 12-75-103 AND 12-75-107
10 RELATING TO EMERGENCY SERVICES DURING A DECLARED
11 DISASTER EMERGENCY TO PROVIDE FOR THE IMMEDIATE
12 DECLARATION OF A DISASTER EMERGENCY IN CASE OF A
13 DISASTER CAUSING THE LOSS OF UTILITY SERVICES TO THE
14 PUBLIC; AND FOR OTHER PURPOSES. "

Subtitle

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16
17 "TO PROVIDE FOR THE IMMEDIATE DECLARATION
18 OF A DISASTER EMERGENCY IN CASE OF A
19 DISASTER CAUSING THE LOSS OF UTILITY
20 SERVICES TO THE PUBLIC. "
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code 12-75-103 is amended to read as follows:

26 "12-75-103. Definitions.

27 As used in this chapter, unless the context otherwise requires:

28 (1) 'Emergency services' means the preparation for and carrying out of
29 all emergency functions by existing state and local governments other than
30 functions for which military forces are primarily responsible to prevent,
31 minimize, and repair injury and damage resulting from major emergencies or
32 from disasters caused by enemy attack, natural causes, man-made catastrophes,
33 or civil disturbances. These functions include, without limitation: fire
34 fighting; law and order; medical and health; rescue; engineering; warning;
35 communications; radiological, chemical, or other special material
36 identification, measurement, and decontamination; evacuation or relocation of

1 persons from stricken areas; emergency social services such as housing,
 2 feeding, and locator service; emergency transportation; plant protection;
 3 damage assessment and evaluation; temporary restoration of public facilities;
 4 debris clearance; and other functions related to the protection of the people
 5 and property of the state, together with all other activities necessary or
 6 incidental to the preparation for and carrying out of all the foregoing
 7 functions;

8 (2) 'Disaster' means any tornado, storm, flood, high water, earthquake,
 9 drought, fire, radiological incident, air or surface-borne toxic or other
 10 hazardous material contamination, or other catastrophe, whether caused by
 11 natural forces, enemy attack, or any other means, ~~occurring anywhere in the~~
 12 ~~state,~~ which:

13 (A) ~~is~~ In the determination of the Governor or the Director of
 14 the Office of Emergency Services or his or her designee, is or threatens to be
 15 of sufficient severity and magnitude to warrant state action or to require
 16 assistance by the state to supplement the efforts and available resources of
 17 local governments and relief organizations in alleviating the damage, loss,
 18 hardship, or suffering caused thereby, and with respect to which the chief
 19 executive of any political subdivision in which the disaster occurs or
 20 threatens to occur certifies the need for state assistance and gives assurance
 21 of the local government for alleviating the damage, loss, hardship, or
 22 suffering resulting from such disaster; or

23 (B) Results in an interruption in the delivery of utility
 24 services in instances where emergency declarations are required and where
 25 delays in obtaining an emergency declaration from the Governor or the Director
 26 of the Office of Emergency Services or his or her designee would hamper and
 27 delay restoration of utility service. In those instances, the Governor or the
 28 Director of the Office of Emergency Services or his or her designee may make
 29 such emergency determination subsequent to the initiation of the restoration
 30 work.

31 (3) 'Major emergency' means a condition which requires the activation
 32 of emergency response at the state or local levels, either in anticipation of
 33 a severe disaster such as an imminent enemy attack, potential civil
 34 disturbance, forecast major natural or man-caused disaster, or actual onset of
 35 conditions requiring the use of such forces which exceed the day-to-day
 36 response and activities of such forces and requires the coordinating of a

1 complement of local, state, federal, or volunteer organizations;

2 (4) 'Local organization for emergency services' means a county or
3 municipal office of emergency services created and established in accordance
4 with the provisions of this chapter to perform local emergency service
5 functions within the existing political subdivisions of the state;

6 (5) 'Mobile support unit' means a unit for damage assessment,
7 evaluation, and recovery operations, created in accordance with this chapter
8 by state and local offices of emergency services from personnel assigned to
9 state and local governmental agencies. The composition of mobile support units
10 shall be determined by the nature of the disaster and type of assistance
11 needed in the stricken area;

12 (6) 'State department/agency liaison office' means personnel designated
13 by each state department/agency head to coordinate with, advise, consult, and
14 otherwise support the state and local offices of emergency services in
15 developing plans, identifying resources, and such other activities as are
16 deemed necessary to ensure that all required resources of the state and local
17 government can be brought to bear in a coordinated manner to effect timely,
18 efficient, and economical response to any disaster or major emergency which
19 may occur;

20 (7) 'Operational control' means the assigning of missions and the
21 exercising of immediate command and overall management of all resources
22 committed by state or local government to a disaster operation or major
23 emergency. Unless otherwise delegated by executive order, the chief executive
24 of the state or local governments or head of the state or local office of
25 emergency services as the chief executive's direct representative will
26 exercise operational control of the occurrence and assign missions. Each
27 agency, department, or organization will exercise control and authority over
28 its personnel and resources to accomplish the assigned mission. Each will
29 coordinate activities through the state or local office of emergency services
30 exercising operational control of the occurrence. Operational control does not
31 imply, nor is it intended to include, administrative management, which will
32 remain with the parent organization;

33 (8) 'Political subdivision' means all duly formed and constituted
34 governing bodies created and established under the authority of the
35 Constitution and laws of this state;

36 (9) 'Chief executive' is synonymous with head of government and means

1 Governor, county judge and mayor or city manager of incorporated places,
2 dependent on the form and level of government;

3 (10) 'Governing bodies' means county quorum courts, city councils, and
4 city boards of directors;

5 (11) 'Public safety agency' means an agency of the State of Arkansas or
6 a functional division of a political subdivision which provides fire fighting
7 and rescue, natural or man-caused disaster or major emergency response, law
8 enforcement, and ambulance or emergency medical services. State and local
9 offices of emergency services are considered in the context and definition of
10 public safety agencies for performance or coordination of functions defined as
11 emergency services to the extent necessary for mitigation of, planning for,
12 response to, and recovery from disasters or major emergencies;

13 (12) 'Public safety officer' of state and local offices of emergency
14 services means those positions approved by the state director in state and
15 local staffing patterns and authorized by him to perform or coordinate
16 emergency service functions to the extent necessary for mitigation of,
17 planning for, response to, and recovery from disasters or major emergencies
18 within limitations of this chapter. Communications personnel may be designated
19 as public safety officers for the purposes of operating public safety
20 communications networks and access to disaster or major emergency areas to
21 operate mobile communications command post equipment;

22 (13) 'Qualified emergency services worker' means a volunteer worker,
23 duly qualified and registered with either an accredited local emergency
24 services organization or the State Office of Emergency Services, who has on
25 file in either of the aforementioned the following:

- 26 (A) Name and address;
- 27 (B) Date enrolled;
- 28 (C) Loyalty oaths; and,
- 29 (D) Class of service assigned;

30 (14) 'Accredited local emergency services organization' means any local
31 organization which has completed the requirements under this chapter, has
32 complied with the rules promulgated by the state office, and has received a
33 letter of accreditation therefrom;

34 (15) 'Individual assistance' means funds and programs to provide for
35 the immediate needs, including, but not limited to, food, clothing, and
36 shelter for individuals and families;

1 (16) 'Public assistance' means funds and programs to make emergency
2 repairs or restoration of public facilities to include, but not limited to,
3 publicly owned or maintained facilities such as roads, streets, bridges,
4 utilities, schools, and other structures and facilities;

5 (17) 'Hazard mitigation assistance' means funds and programs to
6 correct, alleviate, or eliminate a condition or situation which poses a threat
7 to life, property, or public safety from the effects of disaster as defined in
8 § 12-75-103(2). This may include, but is not limited to, raising, replacing,
9 removing, rerouting, or reconstructing existing public facilities such as
10 roads, bridges, buildings, equipment, drainage systems, or other public or
11 private nonprofit property as defined in Public Law 93-288, as amended by
12 Public Law 100-707;

13 (18) 'Established local office of emergency services' means any one (1)
14 of the seventy-five (75) county offices or those specified municipal offices
15 of emergency services accredited by the State Office of Emergency Services as
16 of January 1, 1993, and any such additional municipal or interjurisdictional
17 office of emergency services as may later be established by the Governor under
18 this chapter;

19 (19) 'Interjurisdictional agreement' means a mutual agreement between
20 two (2) or more established local offices of emergency services which is
21 approved by executive order of the Governor in accordance with this chapter to
22 merge, integrate, or otherwise combine the functions of the respective
23 established local offices of emergency services for more effective,
24 economical, and efficient use of available personnel and resources. An
25 agreement shall include specific provisions addressing the appointment,
26 funding, administration, and operational control of the emergency services
27 coordinator and staff of the interjurisdictional office of emergency services;

28 (20) 'Emergency management standards' means standards of training,
29 education, and performance established by the Director of the State Office of
30 Emergency Services for employees of the state and established local offices of
31 emergency services designed to ensure competency and professionalism and to
32 determine minimum qualifications for the receipt of federal or state emergency
33 management funding, or both;

34 (21) 'Emergency management requirements' means specific actions,
35 activities, and accomplishments required for funding of state and established
36 local offices of emergency services, or both, under applicable state and

1 federal emergency management program guidance and regulations; and

2 (22) 'Response assistance' means funds to defray the costs of emergency
3 response that does not necessarily result in a disaster of the magnitude and
4 scope described in subdivision (2) of this section, but which requires the
5 deployment and utilization of state and local government and private,
6 nonprofit emergency personnel, equipment, and resources to protect and
7 preserve lives and property and for the welfare of the citizens of Arkansas.

8 (23) 'Utility services' means the transmission of communications, or
9 the transmission, distribution, or delivery of electricity, water, or natural
10 gas, for public use."

11
12 SECTION 2. Arkansas Code 12-75-107 is amended to read as follows:

13 "12-75-107. Declaration of disaster emergencies ~~by Governor.~~

14 (a) A disaster emergency shall be declared by executive order or
15 proclamation of the Governor if he finds a disaster has occurred or that the
16 occurrence or the threat of disaster is imminent, except that, in the case of
17 a disaster of the type described in § 12-75-103(2)(B), no executive order or
18 proclamation of the Governor or the Director of the Office of Emergency
19 Services or his or her designee need be declared to exist at the instance of
20 the disaster's occurrence.

21 (b) The state of disaster emergency shall continue until:

22 (1) ~~the~~ The Governor finds that the threat or danger has passed
23 and terminates the state of disaster emergency by executive order or
24 proclamation, or

25 (2) ~~that the~~ The disaster has been dealt with to the extent that
26 emergency conditions no longer exist ~~and terminates the state of disaster~~
27 ~~emergency by executive order or proclamation,~~ and the employees engaged in the
28 restoration of utility services have returned to the point of origin but no
29 state of disaster emergency may continue for longer than thirty (30) days
30 unless renewed by the Governor.

31 (c) The General Assembly by concurrent resolution may terminate a state
32 of disaster emergency at any time. Thereupon, the Governor shall issue an
33 executive order or proclamation ending the state of disaster emergency.

34 (d) All executive orders or proclamations issued under this section
35 shall indicate the nature of the disaster, the area or areas threatened, and
36 the conditions which have brought it about or which make possible termination

1 of the state of disaster emergency. In the case of a disaster of the type
2 described in § 12-75-103(2)(B), each provider of utility services whose
3 services were interrupted shall prepare a report describing (A) the type of
4 disaster emergency; (B) the duration of the disaster emergency which includes
5 the time the utility personnel is dispensed to the work site and returns to
6 personnel's point of origin; and (C) the personnel utilized in responding to
7 the disaster emergency.

8 (e) An executive order or proclamation shall be disseminated promptly
9 by means calculated to bring its contents to the attention of the general
10 public and, unless the circumstances attendant upon the disaster prevent or
11 impede, filed promptly with the State Office of Emergency Services, the
12 Secretary of State, and the county or city clerk of the political subdivision
13 to which it applies.

14 (f) An executive order or proclamation of a state of disaster emergency
15 shall activate the disaster response and recovery aspects of the state, local,
16 and interjurisdictional disaster emergency plans applicable to the political
17 subdivision or area in question and be authority for the deployment and use of
18 any forces to which the plan or plans apply and for use or distribution of any
19 supplies, equipment, and materials and facilities assembled, stockpiled, or
20 arranged to be made available pursuant to this chapter or any other provision
21 of law relating to disaster emergencies."
22

23 SECTION 3. All provisions of this act of a general and permanent nature
24 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
25 Revision Commission shall incorporate the same in the Code.
26

27 SECTION 4. If any provision of this act or the application thereof to
28 any person or circumstance is held invalid, such invalidity shall not affect
29 other provisions or applications of the act which can be given effect without
30 the invalid provision or application, and to this end the provisions of this
31 act are declared to be severable.
32

33 SECTION 5. All laws and parts of laws in conflict with this act are
34 hereby repealed.

35 /s/ Simon

36 APPROVED: 3/29/1999