

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

ACT 959 OF 1997
HOUSE BILL 1900

4
5 By: Representative Wren
6
7

For An Act To Be Entitled

8
9 "AN ACT TO MAKE THE STATE OF ARKANSAS A MEMBER OF THE
10 EMERGENCY MANAGEMENT ASSISTANCE COMPACT; AND FOR OTHER
11 PURPOSES."

Subtitle

12
13
14 "TO JOIN THE EMERGENCY MANAGEMENT
15 ASSISTANCE COMPACT."
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. This act may be cited as the Emergency Management Assistance
20 Compact.
21

22 SECTION 2. The Emergency Management Assistance Compact is hereby
23 enacted into law and entered into with all other states which adopt the
24 compact in a form substantially as follows:

Emergency Management Assistance Compact

ARTICLE I - PURPOSE AND AUTHORITIES

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26
27 This compact is made and entered into by and between the participating
28 member states which enact this compact, hereinafter called party states. For
29 the purposes of this agreement, the term "states" is taken to mean the several
30 states, the Commonwealth of Puerto Rico, the District of Columbia, and all
31 U.S. territorial possessions.

32 The purpose of this compact is to provide for mutual assistance between
33 the states entering into this compact in managing any emergency or disaster
34 that is duly declared by the governor of the affected state(s), whether
35 arising from natural disaster, technological hazard, man-made disaster, civil
36 emergency aspects of resources shortages, community disorders, insurgency, or

1 enemy attack.

2 This compact shall also provide for mutual cooperation in emergency-
 3 related exercises, testing, or other training activities using equipment and
 4 personnel simulating performance of any aspect of the giving and receiving of
 5 aid by party states or subdivisions of party states during emergencies, such
 6 actions occurring outside actual declared emergency periods. Mutual
 7 assistance in this compact may include the use of the states National Guard
 8 forces, either in accordance with the National Guard Mutual Assistance Compact
 9 or by mutual agreement between states.

10 ARTICLE II - GENERAL IMPLEMENTATION

11 Each party state entering into this compact recognizes many emergencies
 12 transcend political jurisdictional boundaries and that intergovernmental
 13 coordination is essential in managing these and other emergencies under this
 14 compact. Each state further recognizes there will be emergencies which
 15 require immediate access and present procedures to apply outside resources to
 16 make a prompt and effective response to such an emergency. This is because
 17 few, if any, individual states have all the resources they may need in all
 18 types of emergencies or the capability of delivering resources to areas where
 19 emergencies exist.

20 The prompt, full and effective utilization of resources of the
 21 participating states, including any resources on hand or available from the
 22 Federal Government or any other source, that are essential to the safety,
 23 care, and welfare of the people in the event of any emergency or disaster
 24 declared by a party state, shall be the underlying principle on which all
 25 articles of this compact shall be understood.

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

31 ARTICLE III - PARTY STATE RESPONSIBILITIES

32 A. It shall be the responsibility of each party state to formulate
 33 procedural plans and programs for interstate cooperation in the performance of
 34 the responsibilities listed in this article. In formulating such plans, and
 35 in carrying them out, the party states, insofar as practical, shall:

36 i. Review individual state hazards analyses and, to the extent

1 reasonably possible, determine all those potential emergencies the party
2 states might jointly suffer, whether due to natural disaster, technological
3 hazard, man-made disaster, emergency aspects of resource shortages, civil
4 disorders, insurgency, or enemy attack.

5 ii. Review party states individual emergency plans and develop a
6 plan which will determine the mechanism for the interstate management and
7 provision of assistance concerning any potential emergency.

8 iii. Develop interstate procedures to fill any identified gaps
9 and to resolve any identified inconsistencies or overlaps in existing or
10 developed plans.

11 iv. Assist in warning communities adjacent to or crossing the
12 state boundaries.

13 v. Protect and assure uninterrupted delivery of services,
14 medicines, water, food, energy and fuel, search and rescue, and critical
15 lifeline equipment, services, and resources, both human and material.

16 vi. Inventory and set procedures for the interstate loan and
17 delivery of human and material resources, together with procedures for
18 reimbursement or forgiveness.

19 vii. Provide, to the extent authorized by law, for temporary
20 suspension of any statutes or ordinances that restrict the implementation of
21 the above responsibilities.

22 B. The authorized representative of a party state may request
23 assistance of another party state by contacting the authorized representative
24 of that state. The provisions of this agreement shall only apply to requests
25 for assistance made by and to authorized representatives. Requests may be
26 verbal or in writing. If verbal, the request shall be confirmed in writing
27 within 30 days of the verbal request. Requests shall provide the following
28 information:

29 i. A description of the emergency service function for which
30 assistance is needed, such as but not limited to fire services, law
31 enforcement, emergency medical, transportation, communications, public works
32 and engineering, building inspection, planning and information assistance,
33 mass care, resource support, health and medical services, and search and
34 rescue.

35 ii. The amount and type of personnel, equipment, materials and
36 supplies needed, and a reasonable estimate of the length of time they will be

1 needed.

2 iii. The specific place and time for staging of the assisting
 3 partys response and a point of contact at that location.

4 C. There shall be frequent consultation between state officials who
 5 have assigned emergency management responsibilities and other appropriate
 6 representatives of the party states with affected jurisdictions and the United
 7 States Government, with free exchange of information, plans, and resource
 8 records relating to emergency capabilities.

9 ARTICLE IV - LIMITATIONS

10 Any party state requested to render mutual aid or conduct exercises and
 11 training for mutual aid shall take such action as is necessary to provide and
 12 make available the resources covered by this compact in accordance with the
 13 terms hereof; provided that it is understood that the state rendering aid may
 14 withhold resources to the extent necessary to provide reasonable protection
 15 for such state.

16 Each party state shall afford to the emergency forces of any party
 17 state, while operating within its state limits under the terms and conditions
 18 of this compact, the same powers (except that of arrest unless specifically
 19 authorized by the receiving state), duties, rights, and privileges as are
 20 afforded forces of the state in which they are performing emergency services.
 21 Emergency forces will continue under the command and control of their regular
 22 leaders, but the organizational units will come under the operational control
 23 of the emergency services authorities of the state receiving assistance.
 24 These conditions may be activated, as needed, only subsequent to a declaration
 25 of a state of emergency or disaster by the governor of the party state that is
 26 to receive assistance or commencement of exercises or training for mutual aid
 27 and shall continue so long as the exercises or training for mutual aid are in
 28 progress, the state of emergency or disaster remains in effect or loaned
 29 resources remain in the receiving state(s), whichever is longer.

30 ARTICLE V - LICENSES AND PERMITS

31 Whenever any person holds a license, certificate, or other permit issued
 32 by any state party to the compact evidencing the meeting of qualifications for
 33 professional, mechanical, or other skills, and when such assistance is
 34 requested by the receiving party state, such person shall be deemed licensed,
 35 certified, or permitted by the state requesting assistance to render aid
 36 involving such skill to meet a declared emergency or disaster, subject to such

1 limitations and conditions as the governor of the requesting state may
2 prescribe by executive order or otherwise.

3 ARTICLE VI - LIABILITY

4 Officers or employees of a party state rendering aid in another state
5 pursuant to this compact shall be considered agents of the requesting state
6 for tort liability and immunity purposes; and no party state or its officers
7 or employees rendering aid in another state pursuant to this compact shall be
8 liable on account of any act or omission in good faith on the part of such
9 forces while so engaged or on account of the maintenance or use of any
10 equipment or supplies in connection therewith. Good faith in this article
11 shall not include willful misconduct, gross negligence, or recklessness.

12 ARTICLE VII - SUPPLEMENTARY AGREEMENTS

13 Inasmuch as it is probable that the pattern and detail of the machinery
14 for mutual aid among two or more states may differ from that among the states
15 that are party hereto, this instrument contains elements of a broad base
16 common to all states, and nothing herein contained shall preclude any state
17 from entering into supplementary agreements with another state or affect any
18 other agreements already in force between states. Supplementary agreements
19 may comprehend, but shall not be limited to, provisions for evacuation and
20 reception of injured and other persons and the exchange of medical, fire,
21 police, public utility, reconnaissance, welfare, transportation and
22 communications personnel, and equipment and supplies.

23 ARTICLE VIII - COMPENSATION

24 Each party state shall provide for the payment of compensation and death
25 benefits to injured members of the emergency forces of that state and
26 representatives of deceased members of such forces in case such members
27 sustain injuries or are killed while rendering aid pursuant to this compact,
28 in the same manner and on the same terms as if the injury or death were
29 sustained within their own state.

30 ARTICLE IX - REIMBURSEMENT

31 Any party state rendering aid in another state pursuant to this compact
32 shall be reimbursed by the party state receiving such aid for any loss or
33 damage to or expense incurred in the operation of any equipment and the
34 provision of any service in answering a request for aid and for the costs
35 incurred in connection with such requests; provided, that any aiding party
36 state may assume in whole or in part such loss, damage, expense, or other

1 cost, or may loan such equipment or donate such services to the receiving
 2 party state without charge or cost; and provided further, that any two or more
 3 party states may enter into supplementary agreements establishing a different
 4 allocation of costs among those states. Article VIII expenses shall not be
 5 reimbursable under this provision.

6 ARTICLE X - EVACUATION

7 Plans for the orderly evacuation and interstate reception of portions of
 8 the civilian population as the result of any emergency or disaster of
 9 sufficient proportions to so warrant, shall be worked out and maintained
 10 between the party states and the emergency management/services directors of
 11 the various jurisdictions where any type of incident requiring evacuations
 12 might occur. Such plans shall be put into effect by request of the state from
 13 which evacuees come and shall include the manner of transporting such
 14 evacuees, the number of evacuees to be received in different areas, the manner
 15 in which food, clothing, housing, and medical care will be provided, the
 16 registration of the evacuees, the providing of facilities for the notification
 17 of relatives or friends, and the forwarding of such evacuees to other areas or
 18 the bringing in of additional materials, supplies, and all other relevant
 19 factors. Such plans shall provide that the party state receiving evacuees and
 20 the party state from which evacuees come shall mutually agree as to
 21 reimbursement of out-of-pocket expenses incurred in receiving and caring for
 22 such evacuees, for expenditures for transportation, food, clothing, medicines
 23 and medical care, and like items. Such expenditures shall be reimbursed as
 24 agreed by the party state from which the evacuees come. After the termination
 25 of the emergency or disaster, the party state from which the evacuees come
 26 shall assume the responsibility for the ultimate support of repatriation of
 27 such evacuees.

28 ARTICLE XI - IMPLEMENTATION

29 A. This compact shall become operative immediately upon its enactment
 30 into law by any two (2) states; thereafter, this compact shall become
 31 effective as to any other state upon its enactment by such state.

32 B. Any party state may withdraw from this compact by enacting a statute
 33 repealing the same, but no such withdrawal shall take effect until 30 days
 34 after the governor of the withdrawing state has given notice in writing of
 35 such withdrawal to the governors of all other party states. Such action shall
 36 not relieve the withdrawing state from obligations assumed hereunder prior to

1 the effective date of withdrawal.

2 C. Duly authenticated copies of this compact and of such supplementary
 3 agreements as may be entered into shall, at the time of their approval, be
 4 deposited with each of the party states and with the Federal Emergency
 5 Management Agency and other appropriate agencies of the United States
 6 Government.

7 ARTICLE XII - VALIDITY

8 This Act shall be construed to effectuate the purposes stated in Article
 9 I hereof. If any provision of this compact is declared unconstitutional, or
 10 the applicability thereof to any person or circumstances is held invalid, the
 11 constitutionality of the remainder of the Act and the applicability thereof to
 12 other persons and circumstances shall not be affected thereby.

13 ARTICLE XIII - ADDITIONAL PROVISIONS

14 Nothing in this compact shall authorize or permit the use of military
 15 force by the National Guard of a state at any place outside that state in any
 16 emergency for which the President is authorized by law to call into federal
 17 service the militia, or for any purpose for which the use of the Army or the
 18 Air Force would in the absence of express statutory authorization be
 19 prohibited under Section 1385 of title 18, United States Code.

20
 21 SECTION 3. EMERGENCY. It is hereby found and determined by the General
 22 Assembly that due to the potential danger posed to the citizens of the State
 23 of Arkansas by natural, man-made disaster, or act of war, there is an
 24 immediate need to implement the provisions of this act in the interest of
 25 public safety and welfare. Therefore, an emergency is declared to exist and
 26 this act being immediately necessary for the preservation of the public peace,
 27 health and safety shall become effective on the date of its approval by the
 28 Governor. If the bill is neither approved nor vetoed by the Governor, it
 29 shall become effective on the expiration of the period of time during which
 30 the Governor may veto the bill. If the bill is vetoed by the Governor and the
 31 veto is overridden, it shall become effective on the date the last house
 32 overrides the veto.

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APPROVED:3-31-97