

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1179 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

As Engrossed: H3/3/05

A Bill

HOUSE BILL 1236

4
5 By: Representative Scroggin
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8 **For An Act To Be Entitled**

9 AN ACT TO ESTABLISH A STATEWIDE MUTUAL AID
10 SYSTEM; AND FOR OTHER PURPOSES.

11
12 **Subtitle**

13 AN ACT TO ESTABLISH A STATEWIDE MUTUAL
14 AID SYSTEM.

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16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code § 12-75-103, concerning definitions for
20 emergency management services, is amended to add the following new
21 subdivisions:

22 (24) "Emergency jurisdiction" means any one (1) of the seventy-
23 five (75) counties in the state;

24 (25) "Emergency responder" means any person or entity:

25 (A) With special skills, qualifications, training,
26 knowledge, or experience in the public or private sectors that would be
27 beneficial to an emergency jurisdiction in a local emergency declared under §
28 12-75-108 or training exercises authorized by the United States Federal
29 Department of Homeland Security, the Arkansas Department of Emergency
30 Management, or an emergency jurisdiction; and

31 (B)(i) Who is requested by a participating emergency
32 jurisdiction to respond or assist with a declared emergency or authorized
33 training exercises;

34 (ii) Who is authorized to respond or assist a
35 participating emergency jurisdiction with a declared emergency or authorized



1 training exercises; or

2 (iii) Who is both requested and authorized to
3 respond or assist a participating emergency jurisdiction with a declared
4 emergency or training exercises.

5 (C) An emergency responder is not required by this
6 subchapter to possess a license, certificate, permit, or other official
7 recognition for his or her expertise in a particular field or area of
8 knowledge. However, to the extent that an emergency responder engages in a
9 professional activity that by law requires a license, certificate, permit, or
10 other official recognition in order to engage in the professional activity,
11 the emergency responder shall possess the appropriate professional
12 credentials.

13 (D) An emergency responder may include, without
14 limitation, the following types of personnel:

- 15 (i) Law enforcement officers;
- 16 (ii) Firefighters;
- 17 (iii) Hazardous material response personnel;
- 18 (iv) Decontamination response personnel;
- 19 (v) Certified bomb technicians;
- 20 (vi) Emergency medical services personnel;
- 21 (vii) Physicians;
- 22 (viii) Nurses;
- 23 (ix) Public health personnel;
- 24 (x) Emergency management personnel;
- 25 (xi) Public works personnel;
- 26 (xii) Members of community emergency response teams;
- 27 (xiii) Emergency personnel of nongovernmental
28 organizations; and

29 (xiv) Persons with specialized equipment operations
30 skills or training or any other skills valuable to responding or assisting a
31 participating emergency jurisdiction with a declared emergency or authorized
32 training exercises; and

33 (26) "Participating emergency jurisdiction" means an emergency
34 jurisdiction participating in the statewide mutual aid system established
35 in § 12-75-119.

36

1 SECTION 2. Arkansas Code § 12-75-119 is amended to read as follows:

2 12-75-119. Mutual aid State mutual aid system.

3 ~~(a)(1) Political subdivisions not participating in interjurisdictional~~
4 ~~arrangements pursuant to this chapter nevertheless shall be encouraged and~~
5 ~~assisted by the Arkansas Department of Emergency Management to conclude~~
6 ~~suitable arrangements for furnishing mutual aid in coping with disaster.~~

7 ~~(2) The arrangements shall include provision of aid by persons~~
8 ~~and units in public employ.~~

9 ~~(b) In passing upon local disaster plans, the Governor shall consider~~
10 ~~whether they contain adequate provisions for the rendering and receipt of~~
11 ~~mutual aid.~~

12 ~~(c)(1) It is a sufficient reason for the Governor to require an~~
13 ~~interjurisdictional agreement or arrangement pursuant to § 12-75-117 that the~~
14 ~~area involved and political subdivisions therein have available equipment,~~
15 ~~supplies, and forces necessary to provide mutual aid on a regional basis and~~
16 ~~that the political subdivisions have not already made adequate provision for~~
17 ~~mutual aid.~~

18 ~~(2) However, in requiring the making of an interjurisdictional~~
19 ~~arrangement to accomplish the purpose of this section, the Governor need not~~
20 ~~require establishment and maintenance of an interjurisdictional agency or~~
21 ~~arrangement for any other disaster purposes.~~

22 ~~(d)(1) Mutual aid agreements between political subdivisions are~~
23 ~~encouraged, thereby providing each political subdivision with a larger~~
24 ~~complement of resources.~~

25 ~~(2) The coordinators of the offices of emergency services of the~~
26 ~~participating political subdivisions will approve mutual aid agreements,~~
27 ~~which will become effective upon concurrence of the chief executives of the~~
28 ~~participating subdivisions or the head of a private or volunteer agency.~~

29 ~~(e) Public safety communications centers of the office of emergency~~
30 ~~services of the participating political subdivisions may coordinate and~~
31 ~~dispatch public safety and governmental agencies of their political~~
32 ~~subdivision and, through mutual aid agreements, the public safety and~~
33 ~~governmental agencies of adjacent or multiple political subdivisions on a~~
34 ~~day to day basis, thus permitting consolidation of resources and improved~~
35 ~~response and coordination.~~

36 ~~(f)(1)(A) To provide resources for immediate aid, assistance, and~~

1 ~~unimpeded response and recovery operations within and between the various~~
2 ~~political subdivisions of this state, a de facto mutual aid agreement shall~~
3 ~~exist between counties and municipalities therein and between all counties~~
4 ~~within the state upon declaration of a disaster emergency by the Governor and~~
5 ~~in accordance with § 12-75-107(a)(1).~~

6 ~~(B) This condition shall exist until the disaster~~
7 ~~emergency shall have ended.~~

8 ~~(2) Resources deployed from one (1) jurisdiction to another~~
9 ~~under this provision shall remain under the control of and may be withdrawn~~
10 ~~at the discretion of the providing jurisdiction's chief executive.~~

11 ~~(3) Because of the immediate need for the preservation of lives~~
12 ~~and property in a disaster emergency, formal and specific terms between the~~
13 ~~dispatching and receiving jurisdictions for monetary or in-kind~~
14 ~~reimbursement, or both, of expenses incurred may be delayed until the~~
15 ~~situation has been stabilized and local administrative functions have been~~
16 ~~reestablished.~~

17 (a)(1) All emergency jurisdictions shall participate in the statewide
18 mutual aid system, except as provided in subdivision (a)(2) of this section.

19 (2)(A) An emergency jurisdiction may elect not to participate in
20 the statewide mutual aid system.

21 (B) In order to make the election, the governing body of
22 the emergency jurisdiction shall enact a resolution declaring that the
23 emergency jurisdiction elects not to participate in the statewide mutual aid
24 system.

25 (C) The chief executive officer of the governing body
26 shall provide a copy of the resolution to the Arkansas Department of
27 Emergency Management within ten (10) days of the enactment.

28 (b) Within its own jurisdiction, a participating emergency
29 jurisdiction shall:

30 (1) Identify potential problems and hazards that could affect
31 the jurisdiction using an identification system common to all participating
32 emergency jurisdictions;

33 (2) Conduct joint planning, intelligence sharing, and threat
34 assessment development with contiguous participating emergency jurisdictions;

35 (3) Conduct joint training exercises with contiguous
36 participating emergency jurisdictions at least once every other year;

1 (4) Identify and inventory, at least annually, current services,
2 equipment, supplies, personnel, and other resources related to planning,
3 prevention, mitigation, and response and recovery activities of the
4 participating emergency jurisdiction; and

5 (5) Adopt and implement an incident management system consistent
6 with Homeland Security Presidential Directive #5, HSPD-5 as it existed on
7 January 1, 2005.

8 (c)(1) The chief executive officer of the governing body of a
9 participating emergency jurisdiction, or his or her designee, may request
10 assistance from another participating emergency jurisdiction:

11 (A) To prevent, mitigate, or respond and recover from a
12 local emergency declared under § 12-75-108; or

13 (B) To conduct joint training exercises.

14 (2) A request for assistance may be made verbally or in writing.
15 Verbal requests shall be followed with written confirmation as soon as
16 practical.

17 (3) A request for assistance is not required to be reported to
18 the department in advance of or concurrent with the request. However, a
19 request for assistance shall be reported to the department in writing as soon
20 as practical.

21 (d) A participating emergency jurisdiction's obligation to provide
22 assistance to another participating emergency jurisdiction with the
23 prevention, mitigation, and response and recovery activities related to a
24 declared emergency or training exercises is subject to the following
25 conditions:

26 (1) There must be a local emergency declared under § 12-75-108
27 or a plan to conduct training exercises;

28 (2) A responding participating emergency jurisdiction may
29 withhold its resources to the extent necessary to provide reasonable
30 protection and services for its own jurisdiction;

31 (3)(A) An emergency responder from a participating emergency
32 jurisdiction responding to a request for assistance from another
33 participating emergency jurisdiction shall remain under the command control
34 of his or her home jurisdiction, including use of medical protocols, standard
35 operating procedures, and other protocols and procedures identified by the
36 department.

1 (B) However, for the duration of the assistance, the
2 emergency responder shall be under the operational control of the
3 participating emergency jurisdiction requesting assistance in accordance with
4 the incident management system of that jurisdiction; and

5 (4)(A)(i) Equipment and supplies belonging to a participating
6 emergency jurisdiction responding to a request for assistance from another
7 participating emergency jurisdiction shall remain under the command control
8 of the home jurisdiction.

9 (ii) However, for the duration of the assistance,
10 the equipment and supplies shall be under the operational control of the
11 participating emergency jurisdiction requesting assistance in accordance with
12 the incident management system of that jurisdiction.

13 (B) A participating emergency jurisdiction providing
14 assistance may donate equipment, supplies, or any other kind of asset to
15 another participating emergency jurisdiction.

16 (e) If an emergency responder holds a license, certificate, or other
17 permit issued by a participating emergency jurisdiction or the state
18 evidencing qualification in a professional, mechanical, or other skill and
19 the assistance of the emergency responder is requested by a participating
20 emergency jurisdiction, the emergency responder shall be deemed to be
21 licensed, certified, or permitted in the emergency jurisdiction requesting
22 assistance for the duration of the declared emergency or training exercises,
23 subject to any limitations and conditions imposed by the chief executive
24 officer of the governing body of the participating emergency jurisdiction
25 receiving the assistance.

26 (f)(1)(A) A participating emergency jurisdiction receiving assistance
27 under the statewide mutual aid system shall reimburse a participating
28 emergency jurisdiction responding to a request for assistance for all
29 expenses associated with providing the assistance other than regular salaries
30 and benefits.

31 (B) Requests for reimbursement shall be made in accordance
32 with procedures developed by the Homeland Security Advisory Group and adopted
33 by the department as a rule under the Arkansas Administrative Procedure Act,
34 § 25-15-201 et seq.

35 (C) The department will not provide reimbursement for
36 expenses associated with training exercises except in accordance with

1 applicable rules.

2 (2)(A) If a participating emergency jurisdiction disagrees with
3 another participating emergency jurisdiction regarding reimbursement, the
4 participating emergency jurisdiction asserting the dispute shall notify, in
5 writing, the chief executive officer of the governing body of the
6 participating emergency jurisdiction with which the dispute exists. The
7 notification shall be sent by certified mail, return receipt requested.

8 (B)(i) The jurisdictions involved in the dispute shall
9 make every effort to resolve the dispute within thirty (30) days of receipt
10 of the written notice by the noncomplaining jurisdiction.

11 (ii) In the event that the dispute is not resolved
12 within ninety (90) days of receipt of written notice of the dispute, either
13 jurisdiction may request binding arbitration.

14 (iii) Arbitration conducted under this subdivision
15 (f)(2)(B) shall be conducted under the commercial arbitration rules of the
16 American Arbitration Association as in effect on January 1, 2005.

17 (g) An emergency responder who assists a participating emergency
18 jurisdiction that is not the emergency responder's home jurisdiction and who
19 sustains injury or death in the course of, and arising out of, the
20 responder's employment is entitled to all applicable benefits normally
21 available from the responder's home jurisdiction. Emergency responders may
22 receive additional state benefits as provided by law for death in the line of
23 duty.

24 (h)(1) All activities performed under this section are deemed to be
25 governmental functions.

26 (2)(A) For the purposes of liability, an emergency responder
27 acting under the operational control of a participating emergency
28 jurisdiction requesting assistance is deemed to be an employee of the
29 jurisdiction requesting assistance and exercising operational control.

30 (B) Neither the participating emergency jurisdiction
31 providing assistance nor its employees, except in cases of willful
32 misconduct, gross negligence, or bad faith, shall be liable for the death of
33 or injury to persons or for damage to property when complying or attempting
34 to comply with the request of a participating emergency jurisdiction for
35 assistance under the statewide mutual aid system.

36 (i) This section shall not be construed to prohibit participating

1 emergency jurisdictions from entering into interjurisdictional agreements
2 with one (1) or more other emergency jurisdictions or emergency services
3 entities and shall not affect any other agreement to which an emergency
4 jurisdiction may be a party.

5
6 SECTION 3. Arkansas Code Title 12, Chapter 75, Subchapter 1 is amended
7 to add an additional section to read as follows:

8 12-75-132. Arkansas Homeland Security Advisory Group -- Created.

9 (a) There is created an advisory body to the Arkansas Department of
10 Emergency Management to be known as the "Arkansas Homeland Security Advisory
11 Group".

12 (b) The advisory group shall consist of representatives of federal,
13 state, and local agencies and professional associations as determined by the
14 Director of Arkansas Department of Emergency Management. The advisory group
15 shall include, at a minimum, representatives of the following:

16 (1) Arkansas Department of Emergency Management;

17 (2) Arkansas Ambulance Association;

18 (3) Arkansas Association of Chiefs of Police;

19 (4) Arkansas Association of Fire Chiefs;

20 (5) Arkansas Citizen Corps Point of Contact;

21 (6) Arkansas Department of Environmental Quality;

22 (7) Department of Health;

23 (8) Arkansas Emergency Management Association;

24 (9) Arkansas Highway Police Division of the Arkansas State
25 Highway and Transportation Department;

26 (10) Arkansas Livestock and Poultry Commission;

27 (11) Arkansas Municipal League;

28 (12) Arkansas National Guard;

29 (13) 61st Civil Support Team of the Arkansas National Guard;

30 (14) Arkansas Sheriffs' Association;

31 (15) Department of the Arkansas State Police;

32 (16) State Plant Board;

33 (17) County Judges' Association of Arkansas;

34 (18) Centers for Disease Control;

35 (19) Department of Information Systems;

36 (20) Federal Bureau of Investigation;

1 (21) Health Resources Administration of the U.S. Department of
2 Health and Human Services;

3 (22) Office of Information Technology;

4 (23) United States Secret Service;

5 (24) United States Attorney for the Eastern District of Arkansas;
6 and

7 (25) United States Attorney for the Western District of
8 Arkansas.

9 (c) A representative of the Arkansas Department of Emergency
10 Management shall serve as chair of the advisory group.

11 (d) By January 1, 2006, the advisory group shall develop comprehensive
12 guidelines and procedures that address requirements for the following:

13 (1) Requesting and providing assistance through the statewide
14 mutual aid system;

15 (2) Recordkeeping for all participating emergency jurisdictions;

16 (3) Reimbursement for assistance provided through the statewide
17 mutual aid system; and

18 (4) Any other process necessary to implement the statewide
19 mutual aid system.

20 (e) The advisory group shall meet as often as required to:

21 (1) Review the progress and status of statewide emergency
22 programs;

23 (2) Assist in developing methods to track and evaluate
24 activation of the statewide mutual aid system; and

25 (3) Examine issues facing emergency jurisdictions regarding the
26 implementation and management of the statewide mutual aid system.

27 (f) The advisory group shall prepare at least annually a report on the
28 condition and effectiveness of the statewide mutual aid system and other
29 emergency programs in the state. The report shall include recommendations
30 with regard to correcting any deficiencies identified by the advisory group
31 in the statewide mutual aid system. The advisory group shall submit the
32 report annually to the Director of the Department of Emergency Management and
33 the House and Senate Interim Committees on State Agencies and Governmental
34 Affairs.

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36 /s/ Scroggin

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APPROVED: 3/24/2005