

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 197 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H2/21/07

A Bill

SENATE BILL 209

5 By: Senators Faris, Broadway
6
7

For An Act To Be Entitled

9 AN ACT TO UPDATE EMERGENCY MANAGEMENT SERVICES;
10 AND FOR OTHER PURPOSES.

Subtitle

12 TO UPDATE EMERGENCY MANAGEMENT SERVICES.
13
14
15

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

18 SECTION 1. Arkansas Code § 12-75-102 is amended to read as follows:
19 12-75-102. Policy and purposes.

20 (a) Because of the existing and increasing possibility of the
21 occurrence of a major emergency or a disaster of unprecedented size and
22 destructiveness resulting from enemy attack, natural or human-caused
23 catastrophes, or riots and civil disturbances and in order to ensure that
24 this state will be prepared to deal with such contingencies in a timely,
25 coordinated, and efficient manner and generally to provide for the common
26 defense and protect the public peace, health, safety and preserve the lives
27 and property of the state, it is found and declared to be necessary to:

28 (1) Create from the present Office of Emergency Services and
29 current adjunct offices the Arkansas Department of Emergency Management and
30 authorize and direct the creation of comparable local organizations within
31 the political subdivisions of the state;

32 (2) Confer upon the Governor and upon the executive heads of the
33 political subdivisions of the state the emergency powers provided herein;

34 (3) Provide for the rendering of mutual aid among the political
35 subdivisions of the state and with other states and to cooperate with the



1 federal government with respect to carrying out emergency service functions;

2 (4) Direct the establishment of emergency ~~services~~ management
3 liaison offices within each state department and agency with an emergency
4 management role or responsibility; and

5 (5) Provide for workers' compensation benefits for emergency
6 service workers performing emergency service operations.

7 (b) It is further declared to be the purpose of this chapter and the
8 policy of the state to authorize and provide for a disaster management system
9 embodying all aspects of predisaster preparedness and post-disaster response
10 by requiring all:

11 (1) State and local government offices to coordinate emergency
12 management activities through the Arkansas Department of Emergency Management
13 in order to ~~manage~~ coordinate personnel, equipment, and resources for the
14 most effective and economical use; and

15 (2) Emergency service-related functions of this state be
16 coordinated to the maximum extent with comparable functions of the federal
17 government, including its various departments and agencies, with other states
18 and localities, and with private agencies of every type, to the end that the
19 most effective preparation and use may be made of the state and national
20 manpower, resources, and facilities for dealing with any disaster that may
21 occur.

22 (c)(1) The protection of lives and property is the responsibility of
23 all levels of government.

24 (2) County and municipal governments, except as noted in this
25 subchapter, bear primary responsibility for initial actions and activities
26 related to disaster preparedness, response, and recovery for the county and
27 the municipalities therein through their local emergency management office,
28 with support from the department.

29 (d)(1)(A) When events have exceeded, or will exceed, local
30 government's ability to respond or recover without state assistance, the
31 chief executive officer must declare a local state of disaster or emergency
32 as prescribed in this subchapter to signify his or her intent to request
33 resources of the state or federal government, or both.

34 (B) Where time constraints are critical to the saving of
35 lives and property, the local chief executive officer may verbally declare a
36 local state of disaster or emergency to the Director of the Arkansas

1 Department of Emergency Management, to be followed by a written declaration
2 as soon as practical.

3 (2)(A) Only upon such declaration may the resources of the state
4 be provided and then may the state request that the assistance and resources
5 of the federal government be provided, unless and except where the magnitude
6 of the disaster is of such severity that the functions of local government
7 have ceased or the chief executive officer of the municipal or county
8 government, or both, and his or her designated successor have become
9 incapacitated.

10 (B) Under such conditions the Governor may declare a state
11 of disaster or emergency on behalf of the specified local jurisdiction and
12 direct emergency functions until such time as local government is restored.
13

14 SECTION 2. Arkansas Code § 12-75-103 is amended to read as follows:

15 12-75-103. Definitions.

16 As used in this chapter:

17 ~~(1) "Accredited local emergency services organization" means any~~
18 ~~local organization which has completed the requirements under this chapter,~~
19 ~~has complied with the rules promulgated by the Arkansas Department of~~
20 ~~Emergency Management, and has received a letter of accreditation from the~~
21 ~~department;~~

22 ~~(2)(1)~~ "Chief executive" means a head of government, the
23 Governor, a county judge, and a mayor or city manager of incorporated places,
24 dependent on the form and level of government;

25 ~~(3)(2)~~ "Disaster" means any tornado, storm, flood, high water,
26 earthquake, drought, fire, radiological incident, air or surface-borne toxic
27 or other hazardous material contamination, or other catastrophe, whether
28 caused by natural forces, enemy attack, or any other means which:

29 (A) In the determination of the Governor or the Director
30 of the Arkansas Department of Emergency Management or his or her designee is
31 or threatens to be of sufficient severity and magnitude to warrant state
32 action or to require assistance by the state to supplement the efforts and
33 available resources of local governments and relief organizations in
34 alleviating the damage, loss, hardship, or suffering caused thereby, and with
35 respect to which the chief executive of any political subdivision in which
36 the disaster occurs or threatens to occur certifies the need for state

1 assistance and gives assurance of the local government for alleviating the
2 damage, loss, hardship, or suffering resulting from such disaster; or

3 (B)(i) Results in an interruption in the delivery of
4 utility services when emergency declarations are required and when delays in
5 obtaining an emergency declaration from the Governor or the director or his
6 or her designee would hamper and delay restoration of utility service.

7 (ii) In those instances, the Governor or the
8 director or his or her designee may make such emergency determination
9 subsequent to the initiation of the restoration work;

10 ~~(4)(3)~~ "Emergency jurisdiction" means any one (1) of the
11 seventy-five (75) counties or specified local offices of emergency management
12 or interjurisdictional offices of emergency management in the state;

13 ~~(5)(4)(A)~~ "Emergency management" means disaster or emergency
14 preparedness, mitigation, response, ~~and~~ recovery, and prevention by state and
15 local governments other than functions for which military forces are
16 primarily responsible to prevent, minimize, and repair injury and damage
17 resulting from major emergencies or from disasters caused by enemy attack,
18 domestic or foreign terrorist attacks, natural causes, human-made
19 catastrophes, or civil disturbances.

20 (B) These functions include, without limitation:

21 (i) Fire fighting;

22 (ii) Law and order;

23 (iii) Medical and health;

24 (iv) Rescue;

25 (v) Engineering;

26 (vi) Warning;

27 (vii) Communications;

28 (viii) Radiological, chemical, biological, or other
29 special material identification, measurement, and decontamination;

30 (ix) Evacuation or relocation of persons from
31 stricken areas;

32 (x) Emergency social services such as housing,
33 feeding, and locator services;

34 (xi) Emergency transportations;

35 (xii) Plant protection;

36 (xiii) Damage assessment and evaluation;

1 (xiv) Temporary restoration of public facilities;
2 (xv) Emergency restoration of publicly owned
3 utilities, or privately owned utilities serving the public good;
4 (xvi) Debris clearance;
5 (xvii) Hazard vulnerability and capability analysis;
6 and
7 (xviii) Other functions related to the protection of
8 the people and property of the state, together with all other activities
9 necessary or incidental to the preparedness, mitigation, response, ~~and~~
10 recovery, and prevention for all the functions in this subdivision (5)(B).

11 ~~(6)~~(5) "Emergency management requirements" means specific
12 actions, activities, and accomplishments required for funding of state and
13 established local offices of emergency ~~services~~ management, or both, under
14 applicable state and federal emergency management program guidance and
15 regulations;

16 ~~(7)~~(6) "Emergency management standards" means standards of
17 training, education, and performance established by the director for
18 employees of the state and established local offices of emergency ~~services~~
19 management designed to ensure competency and professionalism and to determine
20 minimum qualifications for the receipt of federal or state emergency
21 management funding, or both;

22 ~~(8)~~(7)(A) "Emergency responder" means any paid or volunteer
23 person or entity:

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

30 (ii) Who is:

31 (a) Requested by a participating emergency
32 jurisdiction to respond or assist with a declared emergency or with
33 authorized training exercises;

34 (b) Authorized to respond or assist a
35 participating emergency jurisdiction with a declared emergency or with
36 authorized training exercises; or

1 (c) Both requested and authorized to respond
2 or assist a participating emergency jurisdiction with a declared emergency or
3 with authorized training exercises.

4 (B)(i) An emergency responder is not required by this
5 subchapter to possess a license, certificate, permit, or other official
6 recognition for his or her expertise in a particular field or area of
7 knowledge.

8 (ii) However, to the extent that an emergency
9 responder engages in a professional activity that by law requires a license,
10 certificate, permit, or other official recognition in order to engage in the
11 professional activity, the emergency responder shall possess the appropriate
12 professional credentials.

13 (C) 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
27 teams;
28 (xiii) Emergency personnel of nongovernmental
29 organizations; and

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

34 ~~(9) "Established local office of emergency services" means any~~
35 ~~one (1) of the seventy five (75) county offices or those specified municipal~~
36 ~~offices of emergency services accredited by the department as of January 1,~~

1 ~~1993, and any such additional municipal or interjurisdictional office of~~
2 ~~emergency services as may later be established by the Governor under this~~
3 ~~chapter;~~

4 ~~(10)~~(8) "Governing body" means a county quorum court, a city
5 council, and a city board of directors;

6 ~~(11)~~(9)(A) "Hazard mitigation assistance" means funds and
7 programs to correct, alleviate, or eliminate a condition or situation which
8 poses a threat to life, property, or public safety from the effects of a
9 disaster.

10 (B) Hazard mitigation assistance may include, but is not
11 limited to, raising, replacing, removing, rerouting, or reconstructing
12 existing public facilities such as roads, bridges, buildings, equipment,
13 drainage systems, or other public or private nonprofit property, as defined
14 in the Disaster Relief Act of 1974, 38 U.S.C. § 3720 and 42 U.S.C. § 5121 et
15 seq.;

16 ~~(12)~~(10) "Individual assistance" means funds and programs to
17 provide for the immediate needs, including, but not limited to, food,
18 clothing, and shelter for individuals and families;

19 ~~(13)~~(11)(A) "Interjurisdictional agreement" means a mutual
20 agreement between two (2) or more established local offices of emergency
21 ~~services~~ management which is approved by executive order of the Governor in
22 accordance with this chapter to merge, integrate, or otherwise combine the
23 functions of the respective established local offices of emergency ~~services~~
24 management for more effective, economical, and efficient use of available
25 personnel and resources.

26 (B) An interjurisdictional agreement shall include
27 specific provisions addressing the appointment, funding, administration, and
28 operational control of the emergency services coordinator and staff of the
29 interjurisdictional office of emergency services;

30 ~~(14)~~(12) "Local ~~organization~~ office for emergency ~~services~~
31 management" means a county or municipal office of emergency ~~services~~
32 management created and established in accordance with the provisions of this
33 chapter to perform local emergency ~~service~~ management functions within the
34 existing political subdivisions of the state;

35 ~~(15)~~(13) "Major emergency" means a condition which requires the
36 activation of emergency response at the state or local levels, either in

1 anticipation of a severe disaster such as an imminent enemy attack, potential
2 civil disturbance, forecast major natural or human-caused disaster, or actual
3 onset of conditions requiring the use of such forces which exceed the day-to-
4 day response and activities of such forces and requires the coordinating of a
5 complement of local, state, federal, or volunteer organizations;

6 ~~(16)(A) "Mobile support unit" means a unit for damage~~
7 ~~assessment, evaluation, and recovery operations, created in accordance with~~
8 ~~this chapter by state and local offices of emergency services from personnel~~
9 ~~assigned to state and local governmental agencies.~~

10 ~~(B) The composition of a mobile support unit shall be~~
11 ~~determined by the nature of the disaster and type of assistance needed in the~~
12 ~~stricken area;~~

13 ~~(17)(14)(A)(i)~~ "Operational control" means the assigning of
14 missions and the exercising of immediate command and overall management of
15 all resources committed by state or local government to a disaster operation
16 or major emergency.

17 (ii) Unless otherwise delegated by executive order,
18 the chief executive of the state or local governments, the director, or head
19 of the local office of emergency ~~services~~ management as the chief executive's
20 direct representative will exercise operational control of the occurrence and
21 assign missions.

22 (B) Each agency, department, or organization will exercise
23 control and authority over its personnel and resources to accomplish the
24 assigned mission.

25 (C)(i) Each agency, department, or organization will
26 coordinate activities through the department or local office of emergency
27 ~~services~~ management exercising operational control of the occurrence.

28 (ii) Operational control does not imply, nor is it
29 intended to include, administrative management, which will remain with the
30 parent organization;

31 ~~(18)(15)~~ "Participating emergency jurisdiction" means an
32 emergency jurisdiction participating in the statewide mutual aid system
33 established in § 12-75-119;

34 ~~(19)(16)~~ "Political subdivision" means all duly formed and
35 constituted governing bodies created and established under the authority of
36 the Arkansas Constitution and laws of this state;

1 ~~(20)~~(17) "Public assistance" means funds and programs to make
 2 emergency repairs or restoration of public facilities, to include, but not be
 3 limited to, publicly owned or maintained facilities such as roads, streets,
 4 bridges, utilities, schools, and other structures and facilities;

5 ~~(21)~~(18)(A) "Public safety agency" means an agency of the State
 6 of Arkansas or a functional division of a political subdivision which
 7 provides firefighting and rescue, natural or human-caused disaster or major
 8 emergency response, law enforcement, and ambulance or emergency medical
 9 services.

10 (B) State and local offices of emergency ~~services~~
 11 management are considered in the context and definition of public safety
 12 agencies for performance or coordination of functions defined as emergency
 13 services to the extent necessary for mitigation of, planning for, response
 14 to, and recovery from disasters or major emergencies;

15 ~~(22)~~(A)(19) "Public safety officer" of state and local offices
 16 of emergency ~~services~~ management means those positions approved by the
 17 director in state and local staffing patterns and authorized by him or her to
 18 perform or coordinate emergency service functions to the extent necessary for
 19 mitigation of, planning for, response to, ~~and recovery from,~~ or prevention of
 20 disasters or major emergencies within limitations of this chapter.;

21 ~~(B) Communications personnel may be designated as public~~
 22 ~~safety officers for the purposes of operating public safety communications~~
 23 ~~networks and access to disaster or major emergency areas to operate mobile~~
 24 ~~communications command post equipment;~~

25 ~~(23)~~(20) "Qualified emergency ~~services~~ worker" means a volunteer
 26 worker, duly qualified and registered with either ~~an accredited~~ a local
 27 emergency services organization or the department, who has on file with
 28 ~~either the accredited local emergency services~~ management organization ~~or the~~
 29 ~~department~~ the following:

30 (A) Name and address;

31 (B) Date enrolled; and

32 ~~(C) Loyalty oaths; and~~

33 ~~(D)~~(C) Class of service assigned;

34 ~~(24)~~(21) "Response assistance" means funds to defray the costs
 35 of response to an emergency that does not necessarily result in a disaster of
 36 the magnitude and scope described in this section, but which requires the

1 deployment and utilization of state and local government and *private*,
 2 ~~nonprofit~~ emergency personnel, equipment, and resources to protect and
 3 preserve lives and property and for the welfare of the citizens of Arkansas;

4 ~~(25)~~(22) "State department/agency liaison office" means
 5 personnel designated by each state department/agency head to coordinate with,
 6 advise, consult, and otherwise support the state and local offices of
 7 emergency ~~services~~ management in developing plans, identifying resources, and
 8 such other activities as are deemed necessary to ensure that all required
 9 resources of the state and local government can be brought to bear in a
 10 coordinated manner to effect a timely, efficient, and economical response to
 11 any disaster or major emergency which may occur; and

12 ~~(26)~~(23) "Utility services" means the transmission of
 13 communications or the transmission, distribution, or delivery of electricity,
 14 water, or natural gas for public use.

15
 16 SECTION 3. Arkansas Code § 12-75-105 is repealed.

17 ~~12-75-105. Status of civil defense employees.~~

18 ~~(a)(1) Nothing in this chapter shall be construed as affecting the~~
 19 ~~employment status of personnel employed by the Executive Office of Civil~~
 20 ~~Defense and Disaster Relief on March 30, 1973.~~

21 ~~(2) Such personnel shall continue to be employed under the~~
 22 ~~provisions of the Merit System Council in the Arkansas Department of~~
 23 ~~Emergency Management.~~

24 ~~(b) The Merit System Council shall effect such changes in job~~
 25 ~~descriptions and position titles as necessary to meet the requirements of~~
 26 ~~this chapter.~~

27
 28 SECTION 4. Arkansas Code § 12-75-107 is amended to read as follows:

29 12-75-107. Declaration of disaster emergencies.

30 (a)(1) A disaster emergency shall be declared by executive order or
 31 proclamation of the Governor if he or she finds a disaster has occurred or
 32 that the occurrence or the threat of disaster is imminent, ~~except that, in~~
 33 ~~the case of a disaster of the type described in § 12-75-103(2)(B), no~~
 34 ~~executive order or proclamation of the Governor or the Director of the~~
 35 ~~Arkansas Department of Emergency Management or his or her designee need be~~
 36 ~~declared to exist at the instance of the disaster's occurrence.~~

1 (2) When time is critical because of rapidly occurring disaster
2 emergency events, the Governor may verbally declare for immediate response
3 and recovery purposes until the formalities of a written executive order or
4 proclamation can be completed in the prescribed manner.

5 (b)(1) The state of disaster emergency shall continue until:

6 (A) The Governor finds that the threat or danger has
7 passed and terminates the state of disaster emergency by executive order or
8 proclamation; or

9 (B) The disaster has been dealt with to the extent that
10 emergency conditions no longer exist and the employees engaged in the
11 restoration of utility services have returned to the point of origin.

12 (2) No state of disaster emergency may continue for longer than
13 sixty (60) days unless renewed by the Governor.

14 (c)(1) The General Assembly by concurrent resolution may terminate a
15 state of disaster emergency at any time.

16 (2) Thereupon, the Governor shall issue an executive order or
17 proclamation ending the state of disaster emergency.

18 (d)(1) All executive orders or proclamations issued under this section
19 shall indicate the nature of the disaster, the area or areas threatened, and
20 the conditions which have brought it about or which make possible termination
21 of the state of disaster emergency.

22 (2) In the case of a disaster ~~of the type described in §12-~~
23 ~~75103(2)(B)~~, each provider of utility services whose services were
24 interrupted shall prepare a report describing:

25 (A) The type of disaster emergency;

26 (B) The duration of the disaster emergency, which includes
27 the time the utility personnel is dispensed to the work site and returns to
28 the personnel's point of origin; and

29 (C) The personnel utilized in responding to the disaster
30 emergency.

31 (e) An executive order or proclamation shall be disseminated promptly
32 by means calculated to bring its contents to the attention of the general
33 public and, unless the circumstances attendant upon the disaster prevent or
34 impede, filed promptly with the ~~Arkansas Department of Emergency Management,~~
35 ~~the Secretary of State, and the county or city clerk of the political~~
36 ~~subdivision to which it applies.~~

1 (f) An executive order or proclamation of a state of disaster
2 emergency shall activate the disaster response and recovery aspects of the
3 state, local, and interjurisdictional disaster emergency plans applicable to
4 the political subdivision or area in question and be authority for the
5 deployment and use of any forces to which the plan or plans apply and for use
6 or distribution of any supplies, equipment, and materials and facilities
7 assembled, stockpiled, or arranged to be made available pursuant to this
8 chapter or any other provision of law relating to disaster emergencies.

9
10 SECTION 5. Arkansas Code § 12-75-108 is amended to read as follows:

11 12-75-108. Local disaster emergencies - Declaration.

12 (a)(1) A local disaster emergency may be declared only by the chief
13 executive or his or her designee of a political subdivision.

14 (2) If time is critical because of a rapidly occurring disaster
15 emergency event, the chief executive verbally may declare a local disaster
16 emergency for immediate response and recovery purposes until the formalities
17 of a written declaration can be completed in the prescribed manner.

18 ~~(2)(3)~~ It shall not be continued or renewed for a period in
19 excess of sixty (60) days except by or with the consent of the governing body
20 of the political subdivision.

21 ~~(3)(4)~~ Any order or proclamation declaring, continuing, or
22 terminating a local disaster emergency shall be given prompt and general
23 publicity and shall be filed promptly with the city or county clerk, as
24 applicable.

25 (b)(1) The effect of a declaration of a local disaster emergency is to
26 activate the response and recovery aspects of any and all applicable local or
27 interjurisdictional disaster emergency plans and to authorize the furnishing
28 of aid and assistance thereunder.

29 (2)(A) In addition to other powers conferred on the chief
30 executive declaring a local disaster emergency, the chief executive may
31 suspend the provisions of any local regulatory ordinances or regulations for
32 up to thirty (30) days if strict compliance with the ordinance provisions
33 would prevent, hinder, or delay necessary actions to cope with the disaster
34 emergency.

35 (B) Local regulatory ordinances include, but are not
36 limited to:

- 1 (i) Zoning ordinances;
2 (ii) Subdivision regulations;
3 (iii) Regulations controlling the development of
4 land;
5 (iv) Building codes;
6 (v) Fire prevention codes;
7 (vi) Sanitation codes;
8 (vii) Sewer ordinances;
9 (viii) Historic district ordinances; and
10 (ix) Any other regulatory type ordinances.

11 (c)(1) No interjurisdictional agency or official thereof may declare a
12 local disaster emergency unless expressly authorized by the agreement
13 pursuant to which the agency functions.

14 (2) However, an interjurisdictional disaster agency shall
15 provide aid and services in accordance with the agreement pursuant to which
16 it functions.

17
18 SECTION 6. Arkansas Code § 12-75-109 is amended to read as follows:

19 12-75-109. Arkansas Department of Emergency Management - Establishment
20 - Personnel.

21 (a) The Arkansas Department of Emergency Management is established as
22 a public safety agency of the State of Arkansas.

23 (b) The department shall have a director appointed by the Governor,
24 with the advice and consent of the Senate, who shall serve at the pleasure of
25 the Governor.

26 (c)(1) The department shall have such professional, technical,
27 secretarial, and clerical employees and may make such expenditures within ~~the~~
28 ~~appropriation~~ its appropriations ~~therefore~~ or from any federal or other funds
29 made available to it from any source whatsoever for the purpose of emergency
30 services, as may be necessary to carry out the purposes of this chapter.

31 (2) All such employees shall be in job positions as approved by
32 the ~~Merit System Council~~ Office of Personnel Management of the Division of
33 Management Services of the Department of Finance and Administration.

34 ~~(d) The present Office of Fire Protection Services, established under~~
35 ~~§ 20-22-805, and the State Office of Hazardous Materials Emergency Management~~
36 ~~established under § 12-84-104, are abolished as independent and separate~~

1 ~~offices and reestablished with personnel, duties, and responsibilities as~~
2 ~~functional programs within the department.~~

3 ~~(e)(d)~~(1) There is created within the department an emergency reserve
4 cadre to be composed of trained and available specialists to assist regular
5 employees during declared disaster response and recovery operations.

6 (2) The Director of the Arkansas Department of Emergency
7 Management shall establish training and professional standards required to
8 supplement state personnel based on state and federal disaster recovery
9 program needs and shall establish a list of persons with those qualifications
10 and make available to reserve cadre personnel such additional training and
11 education opportunities as may be needed to maintain currency and proficiency
12 in the needed skills.

13 (3)(A) Qualified personnel shall be reimbursed at the current
14 state classified entry level salary rate for the position they are
15 temporarily employed to fill and meet such additional training, experience,
16 and qualifications as established by the director for the grade level of the
17 position for which they are employed.

18 (B) Such personnel shall:

19 (i) Be paid from disaster management or
20 administrative funds, or both;

21 (ii) Be limited to salary, logistical, and travel
22 expenses only; and

23 (iii) Not accrue ordinary leave, sick leave, or
24 other employee benefits except for workers' compensation eligibility for
25 injuries or death suffered in the line of duty.

26 (4)(A) Such persons shall only be called to active duty upon
27 declaration of a disaster emergency as stipulated in § 12-75-101 et seq. or
28 the Disaster Relief Act of 1973, Pub. L. No. 93-288, or both, or by executive
29 order of the Governor upon recommendation by the director for due cause or
30 pending emergency needs and shall remain on active duty no longer than sixty
31 (60) days after a declaration or declarations unless such declaration or
32 declarations are extended by the Governor or the President of the United
33 States, in which case they shall be continued for no more than sixty (60)
34 days after the final declaration issued for that disaster emergency event.

35 (B) Based on the size, impact, and magnitude of the
36 disaster event, the director shall determine the minimum number of reserve

1 personnel required to effectively supplement regular state emergency
2 management personnel and report these numbers to the Governor for approval.

3 (5) While in such service, the individuals so employed shall
4 have the same immunities as regular state employees for good faith
5 performance of their designated and assigned official duties under state
6 sovereignty laws and practices.

7
8 SECTION 7. Arkansas Code § 12-75-110 is amended to read as follows:

9 12-75-110. Arkansas Department of Emergency Management - State
10 ~~disaster~~ emergency operations plan.

11 (a) The Arkansas Department of Emergency Management shall ~~prepare~~
12 coordinate and maintain a state ~~disaster~~ emergency operations plan and keep
13 it current, which plan may include:

14 (1) Prevention and minimization of injury and damage caused by
15 disaster;

16 (2) Measures for prompt and effective response to disasters;

17 (3) Emergency relief;

18 (4) Identification of areas particularly vulnerable to
19 disasters;

20 (5) Recommendations for zoning, building, and other land use
21 controls, safety measures for securing mobile homes or other nonpermanent or
22 semipermanent structures, and other preventive and preparedness measures
23 designed to eliminate or reduce disasters or their impact;

24 (6) Assistance to local officials in designing local emergency
25 action plans;

26 (7) Authorization and procedures for the erection or other
27 construction of temporary works designed to protect against or mitigate
28 danger, damage, or loss from flood, conflagration, or other disasters;

29 (8) Preparation and distribution to appropriate state and local
30 officials of state catalogues of federal, state, and private assistance
31 programs;

32 (9) Organization of manpower and the establishment of chains of
33 command;

34 (10) Coordination of federal, state, and local disaster
35 activities;

36 (11) Coordination of the state ~~disaster~~ emergency operations

1 plan with the ~~disaster~~ operations plans of the federal government, including
2 without limitation, the National Response Plan;

3 (12) Establishment of the criteria and definitions for
4 determining catastrophic losses suffered by both individuals and public
5 entities and the enhanced levels of assistance to be provided upon the
6 declaration of a catastrophic loss disaster; and

7 (13) Other necessary matters.

8 (b)(1) In preparing and revising the state ~~disaster~~ emergency
9 operations plan, the department shall seek the advice and assistance of state
10 agencies, local government, business, labor, industry, agriculture, civic and
11 volunteer organizations, and community leaders.

12 (2) In advising local and jurisdictional agencies, the
13 department shall encourage them also to seek advice from these sources.

14 (c) The state ~~disaster~~ emergency operations plan or any part thereof
15 may be incorporated in regulations of the department or executive orders
16 which have the force and effect of law.

17
18 SECTION 8. Arkansas Code § 12-75-111 is amended to read as follows:

19 12-75-111. Arkansas Department of Emergency Management - Other powers
20 and duties.

21 (a) The Arkansas Department of Emergency Management shall, with the
22 assistance and cooperation of other state and local government agencies:

23 (1) Determine requirements of the state and its political
24 subdivisions for food, clothing, and other necessities in event of an
25 emergency;

26 (2) Procure and pre-position supplies, medicines, materials, and
27 equipment;

28 (3) Promulgate standards and requirements for local and
29 interjurisdictional ~~disaster~~ emergency operations plans;

30 (4) Periodically review local and interjurisdictional ~~disaster~~
31 emergency operations plans;

32 (5) Provide for mobile support units;

33 (6) Establish and operate or assist political subdivisions,
34 their disaster agencies, and interjurisdictional disaster agencies to
35 establish and operate training programs and programs of public information;

36 (7) Make surveys of industries, resources, and facilities within

1 the state, both public and private, as are necessary to carry out the
2 purposes of this chapter;

3 (8) Plan and make arrangements for the availability and use of
4 any private facilities, services, and property and, if necessary and if in
5 fact used, provide for payment for use under terms and conditions agreed
6 upon;

7 (9) Establish a register of persons with types of training and
8 skills important in emergency prevention, preparedness, response, and
9 recovery;

10 (10) Establish a register of mobile and construction equipment
11 and temporary housing available for use in a disaster emergency;

12 (11) Prepare for issuance by the Governor of executive orders,
13 proclamations, and regulations as necessary or appropriate in coping with
14 disasters;

15 (12) Cooperate with the federal government and any public or
16 private agency or entity in achieving the purpose of this chapter and in
17 implementing programs for disaster prevention, preparation, response, and
18 recovery; and

19 (13) Do other things necessary, incidental, or appropriate for
20 the implementation of this chapter.

21 (b)(1) The department shall take an integral part in the development
22 and revision of local and interjurisdictional ~~disaster~~ emergency operations
23 plans prepared under § 12-75-118.

24 (2)(A) To this end, the department shall employ or otherwise
25 secure the services of professional and technical personnel capable of
26 providing expert assistance to political subdivisions, their disaster
27 agencies, and interjurisdictional planning and disaster agencies.

28 (B) These personnel shall consult with subdivisions and
29 agencies on a regularly scheduled basis and shall make field examinations of
30 the area, circumstances, and conditions to which particular local and
31 interjurisdictional ~~disaster~~ emergency operations plans are intended to apply
32 and may suggest or require revisions.

33
34 SECTION 9. Arkansas Code § 12-75-112 is amended to read as follows:
35 12-75-112. Communications networks.

36 (a) The Arkansas Department of Emergency Management shall operate and

1 maintain information systems which will make available both voice and data
2 links with ~~the Federal Emergency Management Agency, other~~ federal agencies,
3 other states, and state agencies as are assigned an emergency management role
4 in the State of Arkansas Emergency Operations Plan, and local offices of
5 emergency management.

6 (b) In addition to these minimum requirements, additional information
7 systems networks may be established as deemed necessary by the Director of
8 the Arkansas Department of Emergency Management.

9
10 SECTION 10. Arkansas Code § 12-75-115 is amended to read as follows:
11 12-75-115. Disaster prevention generally.

12 (a)(1) In addition to disaster prevention measures as included in the
13 state, local, and interjurisdictional ~~disaster~~ emergency operations plans,
14 the Governor shall consider on a continuing basis steps that could be taken
15 to prevent or reduce the harmful consequences of disasters.

16 (2) At the Governor's direction, and pursuant to any other
17 authority and competence state agencies have, including, but not limited to,
18 those charged with responsibilities in flood plain management, stream
19 encroachment and flow regulation, weather modification, fire prevention and
20 control, air quality, public works, land use and land use planning, and
21 construction standards shall make studies of disaster prevention-related
22 matters.

23 (3) These studies will be furnished to the Governor and the
24 Arkansas Department of Emergency Management as soon as possible after
25 completion and shall concentrate on means of reducing or avoiding damage
26 caused by possible disasters or their consequences thereof.

27 (4) The Governor, from time to time, shall make recommendations
28 to the General Assembly, local government, and other appropriate public and
29 private entities as may facilitate measures for prevention or reduction of
30 the harmful consequences of disasters.

31 (b)(1) If the department believes, on the basis of the studies or
32 other competent evidence, that an area is susceptible to a disaster of
33 catastrophic proportions without adequate warning, that existing building
34 standards and land use control in that area are inadequate and could add
35 substantially to the magnitude of the disaster, and that changes in zoning
36 regulations, other land use regulations, or building requirements are

1 essential in order to further the purposes of this section, it shall specify
2 the essential changes to the Governor.

3 (2) If the Governor, upon review of the recommendation, finds
4 after public hearing that the changes are essential, he or she shall so
5 recommend to the agencies or local governments with jurisdiction over the
6 area and subject matter.

7 (3) If no action or insufficient action pursuant to the
8 Governor's recommendations is taken within the time specified by the
9 Governor, he or she shall so inform the General Assembly and request
10 legislative action appropriate to mitigate the impact of disaster.

11 (c)(1) At the same time that the Governor makes his or her
12 recommendations pursuant to subsection (b) of this section, the Governor may
13 suspend the standard or control which he or she finds to be inadequate to
14 protect the public safety and by regulation place a new standard or control
15 in effect.

16 (2) The new standard or control shall remain in effect until
17 rejected by concurrent resolution of both houses of the General Assembly or
18 amended by the Governor.

19 (3) During the time it is in effect, the standard or control
20 contained in the Governor's regulation shall be administered and given full
21 effect by all relevant regulatory agencies of the state and local governments
22 to which it applies.

23 (4) The Governor's action is subject to judicial review in
24 accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et
25 seq., but shall not be subject to temporary stay pending litigation.

26

27 SECTION 11. Arkansas Code § 12-75-116 is amended to read as follows:
28 12-75-116. State and local governmental entities - Liaison officers.

29 (a)(1) It is the policy of this chapter that each department,
30 commission, agency, or institution of state and local government actively and
31 aggressively support the state and local offices of emergency ~~services~~
32 management to the end of providing the best possible preparation for ~~and~~
33 response to, or recovery from any emergency situation which may occur.

34 (2) In furtherance of this policy, it is directed that the head
35 of each state department, commission, agency, or institution with an
36 emergency management role or responsibility appoint a member or members of

1 his or her staff as agency emergency ~~services~~ management liaison officer or
2 officers to act on his or her behalf in ensuring the agency's capability to
3 fulfill its role in emergency services activities and will ensure Arkansas
4 Department of Emergency Management is notified of any change in the
5 appointment.

6 (b) It will be the responsibilities of this officer to:

7 (1) Maintain close and continuous liaison with the Arkansas
8 Department of Emergency Management, as applicable;

9 (2) Prepare agency annexes to the state and, as applicable,
10 local emergency operations plans which are compatible with this chapter and
11 with guidance provided by the department;

12 (3) Report to State Emergency Operations Center as required for
13 any disaster training or exercises or emergency training or exercises;

14 ~~(3)~~(4) Maintain files of agency resources to include personnel,
15 facilities, and equipment available for disaster operation;

16 ~~(4)~~(5) Ensure that the agency can respond promptly and
17 cooperatively with other agencies in any disaster or major emergency
18 situation under the overall management of the department;

19 ~~(5)~~(6) Advise, assist, and evaluate the capabilities of
20 counterpart local or federal government agencies in preparing for and
21 carrying out disaster operations;

22 ~~(6)~~(7) Designate personnel available for assignment to mobile
23 support units and train such personnel in the tasks to be performed; and

24 ~~(7)~~(8) Perform other related functions necessary to carry out
25 the purpose of this chapter.

26 (c) As conditions or situations may require or dictate, the Director
27 of the Arkansas Department of Emergency Management may request a state
28 department, agency, or institution not currently participating in the
29 emergency ~~services~~ management liaison officer program to appoint an officer
30 in accordance with this section.

31 (d) Nothing in the subsections (a)-(c) of this section shall be
32 interpreted as relieving or otherwise abridging the responsibility and
33 authority of agency directors in carrying out disaster operations for which
34 their agencies are solely responsible.

35
36 SECTION 12. Arkansas Code § 12-75-117 is amended to read as follows:

1 12-75-117. Interjurisdictional disaster planning and service areas.

2 (a)(1)(A) By executive order, the Governor may combine two (2) or more
3 established local offices of emergency ~~services~~ management as an
4 interjurisdictional office of emergency ~~services~~ management.

5 (B)(i) Prior to such combination, the jurisdictions
6 involved shall prepare for the Governor's approval a written mutual agreement
7 that specifies how and by whom the emergency ~~services~~ management coordinator
8 shall be appointed.

9 (ii) The agreement shall also include specific
10 provisions addressing the funding, administration, staff, and operational
11 control of the interjurisdictional office.

12 (C) The interjurisdictional office of emergency ~~services~~
13 management shall meet the same minimum standards and requirements as a
14 single-jurisdiction office of emergency services in order to maintain
15 eligibility for state and federal emergency management funding and program
16 assistance.

17 (2) A finding of the Governor pursuant to this subsection shall
18 be based on an assessment conducted by the Director of the Arkansas
19 Department of Emergency Management using one (1) or more factors related to
20 the difficulty of maintaining an efficient, effective, and economical system
21 for disaster and emergency preparedness, mitigation, response, and recovery
22 such as:

23 (A) Small or sparse population;

24 (B) Limitations on public financial resources severe
25 enough to make maintenance of a separate established local office of
26 emergency ~~services~~ management unreasonably burdensome;

27 (C) Unusual vulnerability to disasters and emergencies
28 based on geographical, geological, hydrological, meteorological, or
29 technological disaster potential; and

30 (D) Other relevant conditions or circumstances.

31 (b)(1) If the Governor finds that a vulnerable area lies only partly
32 within this state and includes territory in another state or states and that
33 it would be desirable to establish an interstate relationship, mutual aid, or
34 an area organization for disaster, he or she shall take steps toward that end
35 as may be desirable.

36 (2) If this action is taken with jurisdictions having enacted

1 the Interstate Civil Defense and Disaster Compact, § 12-76-101 et seq., any
2 resulting agreement or agreements may be considered supplemental agreements
3 pursuant to Article VI of that compact.

4 (3)(A) If the other jurisdiction or jurisdictions with which the
5 Governor proposes to cooperate pursuant to subdivisions (b)(1) and (2) of
6 this section have not enacted that compact, then he or she may negotiate a
7 special agreement with the jurisdiction or jurisdictions.

8 (B) Any agreement, if sufficient authority for the making
9 thereof does not otherwise exist, becomes effective only after its text has
10 been communicated to the General Assembly and neither house of the General
11 Assembly has disapproved it by adjournment of the next ensuing session
12 competent to consider it or within thirty (30) days of its submission,
13 whichever is longer.

14
15 SECTION 13. Arkansas Code § 12-75-118 is amended to read as follows:

16 12-75-118. Local and interjurisdictional disaster agencies and
17 services.

18 (a)(1) Each political subdivision within this state shall be within
19 the jurisdiction of and served by the Arkansas Department of Emergency
20 Management and by a local or interjurisdictional office of emergency ~~services~~
21 management.

22 (2) Local or interjurisdictional offices of emergency management
23 shall be established as public safety agencies of their respective political
24 subdivisions and be under the direction and control of the appropriate chief
25 executive for the purposes of mitigation of, planning for, response to, and
26 recovery from disaster and major emergency occurrences and for operation of
27 public safety information networks.

28 (b)(1) Each county within the state and those municipalities
29 specifically designated by the Governor shall establish, fund, and maintain
30 an established local office of emergency ~~services~~ management or, as
31 necessary, make arrangements through an interjurisdictional agreement to
32 receive such services.

33 (2) Unless a municipality has been specifically designated as a
34 local ~~organization~~ office of emergency ~~services~~ management, it shall receive
35 emergency services support from the county or counties within which its
36 corporate limits are situated.

1 (c)(1) The Governor shall determine if additional municipal or
2 interjurisdictional offices of emergency ~~services~~ management are required
3 based on an assessment conducted by the Director of the Arkansas Department
4 of Emergency Management using one (1) or more of the factors enumerated in §
5 12-75-117(a).

6 (2) The department shall publish and keep current a list of
7 municipalities required to have offices of emergency ~~services~~ management
8 under this subsection.

9 (d) Any provision of this chapter or other law to the contrary
10 notwithstanding, the Governor may require a political subdivision to
11 establish and maintain an office of emergency ~~services~~ management jointly
12 with one (1) or more contiguous political subdivisions if he or she finds
13 that the establishment and maintenance of any agency or participation therein
14 is made necessary by circumstances or conditions that make it unusually
15 difficult to provide disaster or major emergency prevention, preparedness,
16 response, or recovery services under other provisions of this chapter.

17 (e) Each political subdivision which does not have an office of
18 emergency ~~services~~ management and has not made arrangements to secure or
19 participate in the services of an agency shall have a liaison officer
20 designated to facilitate the cooperation and protection of that subdivision
21 in the work of disaster and major emergency prevention, preparedness,
22 response, and recovery.

23 (f)(1) The chief executive of each political subdivision shall
24 exercise comparable authority within his or her political subdivision, and
25 within the limits of the Arkansas Constitution and laws of the state, as the
26 Governor exercises over the state government during disasters and major
27 emergencies. The chief executive shall ensure, to the maximum extent
28 possible, that his or her jurisdiction meets the minimum expected capability
29 for disaster and emergency mitigation, planning, response, and recovery.

30 (2) The chief executive shall notify the department of the
31 manner in which the political subdivision is providing or securing disaster
32 planning and emergency ~~services~~ management, provide a staffing pattern for
33 the local office of emergency ~~services~~ management, identify the person who
34 heads the local office, and furnish additional information relating thereto
35 as the department requires.

36 (g)(1) Each local and interjurisdictional office of emergency ~~services~~

1 management shall prepare and keep current an emergency operations plan for
2 its area.

3 (2)(A) The basic plan and all annexes must be approved by the
4 office of emergency ~~services~~ management of the political subdivision and
5 receive concurrence of the chief executive.

6 (B) The plan must then be submitted to the department for
7 approval prior to implementation.

8 (h) The local or interjurisdictional office of emergency ~~services~~
9 management, as the case may be, shall prepare a statement. This statement
10 shall be distributed to all appropriate officials in written form and shall
11 be a clear and complete statement of the emergency responsibilities of all
12 local agencies and officials and of the disaster and major emergency chain of
13 command.

14 (i)(1)(A) The county judge of each county and the chief executive
15 officer of those municipal jurisdictions specifically designated as
16 established offices of emergency ~~services~~ management shall appoint an
17 emergency ~~services~~ management coordinator for their respective offices of
18 emergency ~~services~~ management.

19 (B) The written mutual agreement between the participating
20 jurisdictions in an interjurisdictional office of emergency ~~services~~
21 management, executed pursuant to § 12-75-117(a), shall govern the appointment
22 of the emergency ~~services~~ management coordinator of the interjurisdictional
23 office.

24 (C) The emergency ~~services~~ management coordinator shall
25 act for and on behalf of the appropriate chief executive officer to manage
26 and coordinate the functions, duties, and activities of the established local
27 office of emergency ~~services~~ management.

28 (2) The local emergency ~~services~~ management coordinator and such
29 supporting staff of an established local office of emergency ~~services~~
30 management as may be employed in part, or in whole, by state and federal
31 emergency management program funds, shall be responsible for meeting all
32 standards and requirements stipulated for funding under the programs.

33 (3)(A) The director shall establish and periodically review
34 criteria necessary to ensure compliance with minimum standards and
35 requirements.

36 (B) Failure to meet or maintain minimum standards and

1 requirements or noncompliance with any part of this chapter by an established
2 local office of emergency ~~services~~ management may result in a decision by the
3 director to reduce, withhold, or terminate partial or full funding for any or
4 all offices of emergency ~~services~~ management programs in which the political
5 subdivision participates or for which it may be otherwise eligible.

6 (j)(1) Local offices of emergency management shall operate and
7 maintain as a minimum an information systems link with the department.

8 (2)(A) When authorized by the chief executive of the political
9 subdivision and properly staffed, the local office of emergency ~~services~~
10 management may operate a public safety communications center for the purposes
11 of coordination, dispatch, and information services for local government
12 public safety agencies and private or volunteer agencies with an emergency
13 ~~services~~ management mission.

14 (B) The public safety communications center must be
15 staffed by paid office of emergency ~~services~~ management public safety
16 officers of the political subdivision and operate on a continuous basis if it
17 is to serve as a law enforcement or fire dispatch and service center.

18
19 SECTION 14. Arkansas Code § 12-75-120 is repealed.

20 ~~12-75-120. Mobile support units.~~

21 ~~(a) The Governor or his or her duly designated representative is~~
22 ~~authorized to create and establish such number of mobile support units as may~~
23 ~~be necessary to reinforce disaster organizations in stricken areas and with~~
24 ~~due consideration of the plans of the federal government and of other states.~~

25 ~~(b) The Governor shall appoint a commander for each unit who shall~~
26 ~~have primary responsibility for the organization, administration, and~~
27 ~~operation of such unit.~~

28 ~~(c) Mobile support units shall be called to duty upon orders of the~~
29 ~~Governor or his or her director and shall perform their functions in any part~~
30 ~~of this state or, upon the conditions specified in this section, in other~~
31 ~~states.~~

32 ~~(d) Personnel of mobile support units while on duty, whether within or~~
33 ~~without this state, shall:~~

34 ~~(1) If they are employees of this state have the powers, duties,~~
35 ~~rights, privileges, and immunities and receive the compensation incidental to~~
36 ~~their employment;~~

1 ~~(2) If they are employees of a political subdivision of this~~
2 ~~state and whether serving within or without such political subdivision, have~~
3 ~~the powers, duties, rights, privileges, and immunities and receive the~~
4 ~~compensation incidental to their employment; and~~

5 ~~(3) If they are not employees of this state or a political~~
6 ~~subdivision thereof, be entitled to compensation by this state for expenses~~
7 ~~incidental to their services and to the same rights and immunities as are~~
8 ~~provided by law for the employees of this state.~~

9 ~~(e) All personnel of mobile support units, while on duty, shall be~~
10 ~~subject to the operational control of the authority in charge of disaster~~
11 ~~activities in the area in which they are serving and shall be reimbursed for~~
12 ~~all actual and necessary travel and subsistence expenses.~~

13
14 SECTION 15. Arkansas Code § 12-75-121 is amended to read as follows:

15 12-75-121. Utilization of existing services and facilities.

16 (a) In carrying out the provisions of this chapter, the Governor and
17 the chief executives or ~~governing bodies~~ designees of the political
18 subdivisions of the state are directed to utilize the services, equipment,
19 supplies, and facilities of existing departments, offices, and agencies of
20 the state and of the political subdivisions thereof to the maximum extent
21 practicable.

22 (b) The officers and personnel of all such departments, offices, and
23 agencies are directed to cooperate with and extend such services and
24 facilities to the Governor and to the emergency ~~services~~ management
25 organization of the state upon request.

26
27 SECTION 16. Arkansas Code § 12-75-123 is amended to read as follows:

28 12-75-123. Appropriations and authority to accept services, gifts,
29 grants, and loans.

30 (a) Each political subdivision shall have the power to make
31 appropriations in the manner provided by law for making appropriations for
32 the ordinary expenses of such political subdivision for the payment of
33 expenses of its local organization for emergency ~~services~~ management.

34 (b)(1) Whenever the federal government or any agency or officer
35 thereof shall offer to the state, or through the state to any political
36 subdivision thereof, services, equipment, supplies, materials, or funds by

1 way of gift, grant, or loan, for purposes of emergency services or ~~natural~~
2 disaster relief, the state, acting through the Governor, or such political
3 subdivision, acting with the consent of the Governor and through its chief
4 executive or governing body, may accept such offer.

5 (2) Upon such acceptance, the Governor of the state or chief
6 executive or governing body of such political subdivision may authorize any
7 officer of the state or of the political subdivision, as the case may be, to
8 receive such services, equipment, supplies, materials, or funds on behalf of
9 the state or such political subdivision and subject to the terms of the offer
10 and the rules and regulations, if any, of the agency making the offer.

11 (c)(1) Whenever any person, firm, or corporation shall offer to the
12 state, or to any political subdivision thereof, services, equipment,
13 supplies, materials, or funds by way of gift, grant, or loan for purposes of
14 emergency ~~services~~ management, the state, acting through the Governor, or
15 such political subdivision, acting through its chief executive or governing
16 body, may accept such offer.

17 (2) Upon such acceptance, the Governor of the state, or chief
18 executive or governing body of such political subdivision may authorize any
19 officer of the state, or of the political subdivision, as the case may be, to
20 receive such services, equipment, supplies, materials, or funds on behalf of
21 the state, or such political subdivision and subject to the terms of the
22 offer.

23
24 SECTION 17. Arkansas Code § 12-75-126 is amended to read as follows:
25 12-75-126. Public safety officers.

26 (a) No person shall be employed or associated in any capacity in any
27 emergency management organization established under this chapter who:

28 (1) Advocates or has advocated a change by force or violence in
29 the constitutional form of the United States Government or of this state or
30 the overthrow of any government in the United States by force or violence;
31 or

32 (2) Has pleaded guilty or nolo contendere to or been found
33 guilty of any subversive act against the United States or is under indictment
34 or information charging any subversive act against the United States.

35 ~~(a)~~(b) The Director of the Arkansas Department of Emergency Management
36 and persons he or she may designate from the state and local offices of

1 emergency ~~services~~ management staffing patterns shall be sworn public safety
2 officers as defined and limited by this chapter.

3 ~~(b) Determination of the need for such designation shall be based on~~
4 ~~the persons' responsibilities in mitigation of, planning for, response to,~~
5 ~~and recovery from disasters or major emergency occurrences and for public~~
6 ~~safety communications operations.~~

7 (c)(1) Before entering upon his or her duties, each person who is
8 selected to serve as a public safety officer in an organization of emergency
9 management shall take an oath in writing before a person authorized to
10 administer oaths in this state.

11 (2) The oath required in subdivision (c)(1) of this section
12 shall be substantially as follows:

13 "I, _____, do solemnly swear (or affirm) that I will support the
14 Constitution of the United States and the Constitution of the State of
15 Arkansas, and that I will faithfully discharge the duties of the office of
16 Public Safety Officer, upon which I am now about to enter."

17 (d)(1)(A) The Director of the Arkansas Department of Emergency
18 Management may determine what constitutes an Arkansas Department of Emergency
19 Management uniform for department personnel.

20 (B) The chief executive of a local office of emergency
21 management may determine what constitutes a uniform for his or her
22 jurisdiction.

23 (2) The uniform may include a badge or identification card, or
24 both, of appropriate design and dimensions to identify local office of
25 emergency management personnel as bona fide emergency management workers
26 within their jurisdiction and department personnel as bona fide emergency
27 workers for the state.

28 (e) Any person issued or provided a badge, identification, or uniform
29 described in subsection (d) of this section shall wear, carry, or display it
30 at such times and places as shall be designated or required by the chief
31 executive of the local jurisdiction for local office of emergency management
32 personnel and by the director for department personnel.

33
34 SECTION 18. Arkansas Code § 12-75-127 is repealed.

35 ~~12-75-127 Emergency services workers—Eligibility—Oath—Uniform.~~

36 ~~(a) No person shall be employed or associated in any capacity in any~~

1 ~~emergency services organization established under this chapter who:~~

2 (1) ~~Advocates or has advocated a change by force or violence in~~
3 ~~the constitutional form of the United States Government or of this state or~~
4 ~~the overthrow of any government in the United States by force or violence;~~
5 ~~or~~

6 (2) ~~Has been convicted or is under indictment or information~~
7 ~~charging any subversive act against the United States.~~

8 (b) ~~Each person who is appointed to serve in the organization for~~
9 ~~emergency services shall, before entering upon his or her duties, take an~~
10 ~~oath, in writing, before a person authorized to administer oaths in this~~
11 ~~state, which oath shall be substantially as follows:~~

12 "~~I, , do solemnly swear that I will support~~
13 ~~and defend the Constitution of the United States and the Constitution of the~~
14 ~~State of Arkansas, against all enemies, foreign and domestic; that I will~~
15 ~~bear true faith and allegiance to the same; that I take this obligation~~
16 ~~freely, without any mental reservation or purpose of evasion; and that I will~~
17 ~~well and faithfully discharge the duties upon which I am about to enter.~~"

18 (c)(1)(A) ~~The Director of the Arkansas Department of Emergency~~
19 ~~Management may determine what is to constitute an Arkansas Department of~~
20 ~~Emergency Management uniform for department personnel.~~

21 (B) ~~Likewise, the chief executive of a local office of~~
22 ~~emergency services may determine, as deemed necessary, what is to constitute~~
23 ~~a uniform for his or her jurisdiction.~~

24 (2) ~~The uniform may include a badge or identification card, or~~
25 ~~both, of appropriate design and dimensions to identify local office of~~
26 ~~emergency services personnel as bona fide emergency services workers within~~
27 ~~their jurisdiction and department personnel as bona fide emergency workers~~
28 ~~for the State of Arkansas.~~

29 (d) ~~All persons issued or provided such badge, identification, or~~
30 ~~uniform shall wear, carry, or display it at such times and places as shall be~~
31 ~~designated or required by the chief executive of the local jurisdiction for~~
32 ~~local office of emergency services personnel and by the director for~~
33 ~~department personnel.~~

34
35 SECTION 19. Arkansas Code 12-75-128 is amended to read as follows:
36 12-75-128. Emergency ~~services workers~~ responders - Immunities and

1 exemptions.

2 (a) All functions under this chapter and all other activities relating
3 to emergency services are declared to be governmental functions.

4 (b) No emergency ~~services worker~~ responder, except in cases of willful
5 misconduct, gross negligence, or bad faith, when complying with or reasonably
6 attempting to comply with this chapter, or any other rule or regulation
7 promulgated pursuant to the provisions of this section or pursuant to any
8 ordinance relating to blackout or other precautionary measures enacted by any
9 political subdivision of the state, shall be liable for the death of or
10 injury to persons, or for damage to property, as a result of any such
11 activity.

12 (c) The immunity in subsection (b) of this section shall extend to
13 both emergency ~~services workers~~ responders who are employees and to qualified
14 emergency ~~services workers~~ responders who are volunteers.

15 (d) The provisions of this section shall not affect the right of any
16 person to receive benefits to which he or she would otherwise be entitled to
17 under this chapter, under the Workers' Compensation Law, § 11-9-101 et seq.,
18 or under the retirement system laws of Arkansas nor the right of any such
19 person to receive any benefits or compensation under any act of Congress.

20 (e)(1) Any requirement for a license to practice any professional,
21 mechanical, or other skill shall not apply to any authorized emergency
22 service worker who shall, in the course of performing his or her duties as
23 such, practice such professional, mechanical, or other skill during an
24 emergency.

25 (2) However, subdivision (e)(1) of this section shall not apply
26 to required medical licenses except in cases of first aid treatment.

27 (f) As used in this chapter, the term "emergency ~~service worker~~
28 responder" shall include those persons qualified under § 12-75-103 and any
29 full-time or part-time paid, volunteer, or auxiliary employees of this state
30 or other states, territories, possessions, or the District of Columbia, the
31 federal government, any neighboring country, or any political subdivision
32 thereof, or of any agency or organization performing emergency preparedness
33 services at any place in this state subject to the order or control of, or
34 pursuant to, a request of the state government or any political subdivision
35 thereof.

36 (g) Any emergency ~~services worker~~ responder performing emergency

1 preparedness services at any place in this state pursuant to agreements,
2 compacts, or arrangements for mutual aid and assistance, to which the state
3 or a political subdivision of the state is a party, shall possess the same
4 powers, duties, immunities, and privileges he or she would ordinarily possess
5 if performing his or her duties in the state, province, or political
6 subdivision of the state or province in which normally employed or rendering
7 services.

8
9 SECTION 20. Arkansas Code § 12-75-129 is amended to read as follows:

10 12-75-129. Emergency ~~services workers~~ responders - Workers'
11 compensation benefits.

12 (a)(1) Benefits payable for the injury or death of persons appointed
13 and regularly enrolled in accredited emergency ~~services~~ management
14 organizations and covered by this chapter, while actually engaged in
15 emergency ~~service~~ management duties either during training or during a period
16 of emergency and subject to the order or control of or pursuant to a request
17 of and under the supervision and instruction of the Governor, the Arkansas
18 Department of Emergency Management, the chief executive or the designated
19 director of a department, or a county of an accredited local government unit
20 making use of emergency ~~service~~ management volunteer workers shall be limited
21 to the provisions of the Workers' Compensation Law, § 11-9-101 et seq., if
22 such persons are regularly employed by a local government or the State of
23 Arkansas.

24 (2) If such person is a qualified emergency ~~services volunteer~~
25 ~~worker~~ responder of the State of Arkansas or ~~an accredited~~ a local
26 ~~organization~~ office for emergency ~~services~~ management, recovery shall be
27 limited as provided in this section.

28 (b) The remedy provided in this section shall be the exclusive remedy
29 as against the state and political subdivisions thereof.

30 (c)(1) For the purpose of workers' compensation coverage in cases of
31 injury to or death of an individual, all duly ~~registered and~~ qualified
32 emergency ~~services volunteer workers~~ responders shall be deemed local
33 government or state employees and shall receive compensation, and their
34 survivors shall receive death benefits in like manner as regular local
35 government or state employees for injury or death arising out of and in the
36 course of their activities as emergency ~~services volunteer workers~~

1 responders.

2 (2) If a ~~volunteer worker~~ an emergency responder is injured or
3 killed while subject to the order or control of ~~an accredited~~ a local
4 government, compensation and benefits shall be charged against the applicable
5 local government's experience rate and paid from the appropriate state
6 workers' compensation fund.

7 (3) If the emergency ~~services volunteer worker~~ responder was
8 under the order or control of a state agency when injured or killed,
9 compensation and benefits shall be charged against the experience rate of the
10 state agency who exercised order or control at the time of injury or death
11 and paid from the appropriate state workers' compensation fund.

12 (d)(1) For the purpose of subsection (c) of this section, the weekly
13 compensation benefits for such emergency ~~services volunteer workers~~
14 responders who receive no monetary compensation for services rendered as such
15 workers shall be calculated based upon the wages received from their regular
16 or usual employments, the same as a regular local or state employee, with
17 respect to injury, disability, or death.

18 (2) The reimbursement of ~~twenty five dollars (\$25.00) or less~~
19 per day for approved out-of-pocket expenses incurred in response to an
20 emergency situation, such as gasoline, oil, uniforms, and required equipment,
21 etc., shall not be construed as monetary compensation for the volunteer
22 worker.

23 (e)(1) In the event that any person who is entitled to receive
24 benefits through the application of subsection (c) of this section receives,
25 in connection with the injury, disability, or death giving rise to such
26 entitlement, benefits under an act of Congress or federal program providing
27 benefits for emergency ~~services workers~~ responders or their survivors, then
28 the benefits payable under this section shall be reduced to the extent of the
29 benefits received under such other act or program.

30 (2) Any person who performs the duties of a member or trainee as
31 an adjunct to his or her regular employment and who otherwise would be
32 entitled to receive workers' compensation benefits for his or her injury,
33 disability, or death, if injured in the performance of such duties, shall be
34 deemed to have been injured, disabled, or killed in the course of his or her
35 regular employment.

36 (f) An emergency ~~services volunteer worker~~ responder shall be deemed

1 duly registered and qualified when he or she is a member of and has on file
2 in either ~~an accredited~~ local emergency ~~services organization~~ management
3 office or in the Arkansas Department of Emergency Management the following
4 information:

- 5 (1) Name and address;
- 6 (2) Date enrolled; and
- 7 ~~(3) Loyalty oath; and~~
- 8 ~~(4)~~(3) Class of service assigned.

9 (g) Payments and death and disability benefits as provided in this
10 section shall be made from the Workers' Compensation Revolving Fund for state
11 employees.

12
13 /s/ Faris

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15 *APPROVED: 3/5/2007*
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