

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.

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

# A Bill

HOUSE BILL 1236

4  
5 By: Representative Scroggin  
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7

## For An Act To Be Entitled

8  
9 AN ACT TO ESTABLISH A STATEWIDE MUTUAL AID  
10 SYSTEM; AND FOR OTHER PURPOSES.  
11

## Subtitle

12  
13 AN ACT TO ESTABLISH A STATEWIDE MUTUAL  
14 AID SYSTEM.  
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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 an established local office  
23 of emergency services;

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  
36 training exercises; or



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

4                   (C) An emergency responder is not required to possess a  
5 license, certificate, permit, or other official recognition for his or her  
6 expertise in a particular field or area of knowledge and may include, without  
7 limitation, the following types of personnel:

8                   (i) Law enforcement officers;

9                   (ii) Firefighters;

10                  (iii) Hazardous material response personnel;

11                  (iv) Decontamination response personnel;

12                  (v) Certified bomb technicians;

13                  (vi) Emergency medical services personnel;

14                  (vii) Physicians;

15                  (viii) Nurses;

16                  (ix) Public health personnel;

17                  (x) Emergency management personnel;

18                  (xi) Public works personnel;

19                  (xii) Members of community emergency response teams;

20 and

21                  (xiii) Persons with specialized equipment operations  
22 skills or training or any other skills valuable to responding or assisting a  
23 participating emergency jurisdiction with a declared emergency or authorized  
24 training exercises; and

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

28  
29                  SECTION 2. Arkansas Code § 12-75-119 is amended to read as follows:  
30                  12-75-119. ~~Mutual aid~~ State mutual aid system.

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

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

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

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

10           ~~(2)—However, in requiring the making of an interjurisdictional~~  
 11 ~~arrangement to accomplish the purpose of this section, the Governor need not~~  
 12 ~~require establishment and maintenance of an interjurisdictional agency or~~  
 13 ~~arrangement for any other disaster purposes.~~

14           ~~(d)(1)—Mutual aid agreements between political subdivisions are~~  
 15 ~~encouraged, thereby providing each political subdivision with a larger~~  
 16 ~~complement of resources.~~

17           ~~(2)—The coordinators of the offices of emergency services of the~~  
 18 ~~participating political subdivisions will approve mutual aid agreements,~~  
 19 ~~which will become effective upon concurrence of the chief executives of the~~  
 20 ~~participating subdivisions or the head of a private or volunteer agency.~~

21           ~~(e)—Public safety communications centers of the office of emergency~~  
 22 ~~services of the participating political subdivisions may coordinate and~~  
 23 ~~dispatch public safety and governmental agencies of their political~~  
 24 ~~subdivision and, through mutual aid agreements, the public safety and~~  
 25 ~~governmental agencies of adjacent or multiple political subdivisions on a~~  
 26 ~~day to day basis, thus permitting consolidation of resources and improved~~  
 27 ~~response and coordination.~~

28           ~~(f)(1)(A)—To provide resources for immediate aid, assistance, and~~  
 29 ~~unimpeded response and recovery operations within and between the various~~  
 30 ~~political subdivisions of this state, a de facto mutual aid agreement shall~~  
 31 ~~exist between counties and municipalities therein and between all counties~~  
 32 ~~within the state upon declaration of a disaster emergency by the Governor and~~  
 33 ~~in accordance with § 12-75-107(a)(1).~~

34           ~~(B)—This condition shall exist until the disaster~~  
 35 ~~emergency shall have ended.~~

36           ~~(2)—Resources deployed from one (1) jurisdiction to another~~

~~under this provision shall remain under the control of and may be withdrawn at the discretion of the providing jurisdiction's chief executive.~~

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

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

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

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

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

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

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

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

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

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

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

(c)(1) The chief executive officer of the governing body of a

1 participating emergency jurisdiction, or his or her designee, may request  
 2 assistance from another participating emergency jurisdiction:

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

5 (B) To conduct joint training exercises.

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

9 (3) A request for assistance is not required to be reported to  
 10 the department in advance of or concurrent with the request. However, a  
 11 request for assistance shall be reported to the department in writing as soon  
 12 as practical.

13 (d) A participating emergency jurisdiction's obligation to provide  
 14 assistance to another participating emergency jurisdiction with the  
 15 prevention, mitigation, and response and recovery activities related to a  
 16 declared emergency or training exercises is subject to the following  
 17 conditions:

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

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

23 (3)(A) An emergency responder from a participating emergency  
 24 jurisdiction responding to a request for assistance from another  
 25 participating emergency jurisdiction shall remain under the command control  
 26 of his or her home jurisdiction, including use of medical protocols, standard  
 27 operating procedures, and other protocols and procedures identified by the  
 28 department.

29 (B) However, for the duration of the assistance, the  
 30 emergency responder shall be under the operational control of the  
 31 participating emergency jurisdiction requesting assistance in accordance with  
 32 the incident management system of that jurisdiction; and

33 (4)(A)(i) Equipment and supplies belonging to a participating  
 34 emergency jurisdiction responding to a request for assistance from another  
 35 participating emergency jurisdiction shall remain under the command control  
 36 of the home jurisdiction.

1                   (ii) However, for the duration of the assistance,  
2 the equipment and supplies 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.

5                   (B) A participating emergency jurisdiction providing  
6 assistance may donate equipment, supplies, or any other kind of asset to  
7 another participating emergency jurisdiction.

8                   (e) If an emergency responder holds a license, certificate, or other  
9 permit issued by a participating emergency jurisdiction or the state  
10 evidencing qualification in a professional, mechanical, or other skill and  
11 the assistance of the emergency responder is requested by a participating  
12 emergency jurisdiction, the emergency responder shall be deemed to be  
13 licensed, certified, or permitted in the emergency jurisdiction requesting  
14 assistance for the duration of the declared emergency or training exercises,  
15 subject to any limitations and conditions imposed by the chief executive  
16 officer of the governing body of the participating emergency jurisdiction  
17 receiving the assistance.

18                   (f)(1)(A) A participating emergency jurisdiction receiving assistance  
19 under the statewide mutual aid system shall reimburse a participating  
20 emergency jurisdiction responding to a request for assistance for all  
21 expenses associated with providing the assistance other than regular salaries  
22 and benefits.

23                   (B) Requests for reimbursement shall be made in accordance  
24 with procedures developed by the Homeland Security Advisory Group and adopted  
25 by the department as a rule under the Arkansas Administrative Procedure Act,  
26 § 25-15-201 et seq.

27                   (C) The department will not provide reimbursement for  
28 expenses associated with training exercises except in accordance with  
29 applicable rules.

30                   (2)(A) If a participating emergency jurisdiction disagrees with  
31 another participating emergency jurisdiction regarding reimbursement, the  
32 participating emergency jurisdiction asserting the dispute shall notify, in  
33 writing, the chief executive officer of the governing body of the  
34 participating emergency jurisdiction with which the dispute exists. The  
35 notification shall be sent by certified mail, return receipt requested.

36                   (B)(i) The jurisdictions involved in the dispute shall

1 make every effort to resolve the dispute within thirty (30) days of receipt  
 2 of the written notice by the noncomplaining jurisdiction.

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

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

9 (g) An emergency responder who assists a participating emergency  
 10 jurisdiction that is not the emergency responder's home jurisdiction and who  
 11 sustains injury or death in the course of, and arising out of, the  
 12 responder's employment is entitled to all applicable benefits normally  
 13 available from the responder's home jurisdiction. Emergency responders may  
 14 receive additional state benefits as provided by law for death in the line of  
 15 duty.

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

18 (2)(A) For the purposes of liability, an emergency responder  
 19 acting under the operational control of a participating emergency  
 20 jurisdiction requesting assistance is deemed to be an employee of the  
 21 jurisdiction requesting assistance and exercising operational control.

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

28 (i) This section shall not be construed to prohibit participating  
 29 emergency jurisdictions from entering into interjurisdictional agreements  
 30 with one (1) or more other emergency jurisdictions or emergency services  
 31 entities and shall not affect any other agreement to which an emergency  
 32 jurisdiction may be a party.

33  
 34 SECTION 2. Arkansas Code Title 12, Chapter 75, Subchapter 1 is amended  
 35 to add an additional section to read as follows:

36 12-75-132. Homeland Security Advisory Group -- Created.

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

3           (b) The group shall consist of the following eight (8) members:

4                   (1) The director of the Arkansas Department of Emergency  
 5 Management;

6                   (2) The director of the Arkansas Department of Health;

7                   (3) The director of the Department of Arkansas State Police;

8                   (4) The director of the Arkansas Livestock and Poultry  
 9 Commission;

10                  (5) The director of the State Plant Board;

11                  (6) The Adjutant General;

12                  (7) The president of the County Judges' Association of Arkansas;

13 and

14                  (8) The Governor's homeland security policy advisor.

15           (c) The director of the Arkansas Department of Emergency Management  
 16 shall serve as chair of the group.

17           (d) By January 1, 2006, the group shall develop comprehensive  
 18 procedures that address requirements for the following:

19                   (1) Requesting and providing assistance through the statewide  
 20 mutual aid system;

21                   (2) Recordkeeping for all participating emergency jurisdictions;

22                   (3) Reimbursement for assistance provided through the statewide  
 23 mutual aid system; and

24                   (4) Any other process necessary to implement the statewide  
 25 mutual aid system.

26           (e) The group shall meet at least annually to:

27                   (1) Review the progress and status of statewide emergency  
 28 programs;

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

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

33           (f) The group shall prepare at least annually a report on the  
 34 condition and effectiveness of the statewide mutual aid system and other  
 35 emergency programs in the state. The report shall include recommendations  
 36 with regard to correcting any deficiencies identified by the group in the



1 statewide mutual aid system or other emergency programs. The group shall  
2 submit the report annually to the House and Senate Interim Committees on  
3 State Agencies and Governmental Affairs.

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