WEST VIRGINIA CODE: §15-5-28

§15-5-28. Statewide mutual aid system.

(a) The Legislature hereby finds that emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential for the protection of lives and property and for the best use of available assets, both public and private. The purpose of this section is to create a system of intrastate mutual aid between participating political subdivisions in the state. The system shall provide for mutual assistance among the participating political subdivisions in the prevention of, response to and recovery from any disaster that results in a formal state of emergency or state of preparedness in a participating political subdivision, subject to that participating political subdivision's criteria for declaration. The system shall provide for mutual cooperation among the participating subdivisions in conducting disaster-related exercises, testing or other training activities outside actual declared emergency periods. This section provides no immunity, rights or privileges for any individual responding to a state of emergency or state of preparedness that is not requested or authorized to respond by a participating political subdivision. Participating political subdivisions will be ensured, to the fullest extent possible, eligibility for state and federal disaster funding.

(b) Upon the enactment of this legislation, all political subdivisions within the state are members of the statewide mutual aid system: Provided, That a political subdivision within the state may elect not to participate or to withdraw from the system upon the enactment of an appropriate resolution by its governing body declaring that it elects not to participate in the statewide mutual aid system. A copy of any such resolution shall be provided to the Division of Homeland Security and Emergency Management.

(c) This section does not preclude participating political subdivisions from entering into supplementary agreements with another political subdivision and does not affect any other agreement to which a political subdivision may currently be a party to, or decide to be a party to.

(d) "Emergency responder", as used in this article, shall mean anyone with special skills, qualifications, training, knowledge and experience in the public or private sectors that would be beneficial to a participating political subdivision in response to a locally declared emergency as defined in any applicable law or ordinance or authorized drill or exercises; and who is requested and authorized to respond. Under this definition, an emergency responder may be required to possess a license, certificate, permit or other official recognition for his or her expertise in a particular field or area of knowledge. An emergency responder could include, but is in no way limited to, the following: Law-enforcement officers, firefighters, emergency medical services personnel, physicians, nurses, other public health personnel, emergency management personnel, public works personnel, local emergency debris removal teams, those persons with specialized equipment operations skills or training or any other skills needed to provide aid in a declared emergency.

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(e) It shall be the responsibility of each participating political subdivision with jurisdiction over and responsibility for emergency management within that certain subdivision to do all of the following:

(1) Identify potential hazards that could affect the participant using an identification system common to all participating jurisdictions.

(2) Conduct joint planning, intelligence sharing and threat assessment development with contiguous participating political subdivisions and conduct joint training at least biennially.

(3) Identify and inventory the current services, equipment, supplies, personnel and other resources related to planning, prevention, mitigation, response and recovery activities of the participating political subdivision.

(4) Adopt and implement the National Incident Management System approved by the State of West Virginia.

(f) A participating political subdivision may request assistance of other participating political subdivisions in preventing, mitigating, responding to and recovering from disasters that result in locally declared emergencies or in concert with authorized drills or exercises as allowed under this section. Requests for assistance shall be made to the Division of Homeland Security and Emergency Management through the designated county emergency management director by the chief executive officer of a participating political subdivision, or his or her designee, for response. Requests may be verbal or in writing. Verbal requests will be followed up with a written request as soon as is practical or such number of days as the state, in its discretion, may dictate.

(g) The obligation of a participating political subdivision to provide assistance in the prevention of, response to and recovery from a locally declared emergency or in authorized drills or exercises is subject to the following conditions:

(1) A participating political subdivision requesting assistance must have either declared a state of emergency in the manner outlined in this section or authorized drills and exercises;

(2) A responding participating political subdivision may withhold resources to the extent necessary to provide reasonable protection and services for its own jurisdiction;

(3) Emergency response personnel of a responding participating political subdivision shall continue under the command and control of their responding jurisdiction to include medical protocols, standard operating procedures and other protocols, but shall be under the operational control of the appropriate officials within the National Incident Management System of the participating political subdivision receiving the assistance; and

(4) Assets and equipment of a responding participating political subdivision shall continue under the control of the responding jurisdiction, but shall be under the operational control of the appropriate officials within the National Incident Management System of the

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participating political subdivision receiving the assistance.

(h) If a person or entity holds a license, certificate or other permit issued by a participating political subdivision or the state evidencing qualification in a professional, mechanical or other skill and the assistance of that person or entity is requested by a participating political subdivision, the person or entity shall be deemed to be licensed, certified or permitted in the political subdivision requesting assistance for the duration of the declared emergency or authorized drills or exercises and subject to any limitations and conditions the chief executive of the participating political subdivision receiving the assistance may prescribe by executive order or otherwise.

(i) (1) Any requesting political subdivision shall reimburse the participating political subdivision rendering aid under this system provided the request for aid is authorized by the Division of Homeland Security and Emergency Management. A participating political subdivision providing assistance may determine to donate assets of any kind to a receiving participating political subdivision.

(2) Should a dispute arise between parties to the system regarding reimbursement, involved parties will make every effort to resolve the dispute within thirty days of written notice of the dispute by the party asserting noncompliance. In the event that the dispute is not resolved within ninety days of the notice of the claim, either party may request the dispute be solved through arbitration. Any arbitration under this provision shall be conducted under the commercial arbitration rules of the American Arbitration Association.

(j) Personnel of a participating political subdivision responding to or rendering assistance for a request who sustain injury or death in the course of, and arising out of, their employment are entitled to all applicable benefits normally available to personnel while performing their duties for their employer. Responders shall receive any additional state and federal benefits that may be available to them for line-of-duty deaths.

(k) All activities performed under this section are deemed hereby to be governmental functions. For the purposes of liability, all persons responding under the operational control of the requesting political subdivision are deemed to be employees of the requesting participating political subdivision.

(l) Whenever the law-enforcement officials of any political subdivision are rendering outside aid pursuant their lawful authority, and with the approval of the Director of the West Virginia Division of Homeland Security and Emergency Management, and under the authority of a state of emergency or state of preparedness as officially proclaimed by the Governor, such law-enforcement officials shall have the same authority, powers, duties, rights, privileges and immunities as if they were performing their law-enforcement duties in the political subdivisions in which they are normally employed. The authority vested in the law-enforcement official, in accordance with this section, shall vest upon reporting in person to the Emergency Management Agency official in charge and on duty at the county or city of destination assignment. The law-enforcement official shall act under the authority,

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supervision and control of the highest ranking law-enforcement official within the assigned outside jurisdiction. Law enforcement and powers of arrest authority will not attach to the law-enforcement official while in transit from his or her jurisdiction of origin en route to his or her assigned jurisdiction under intrastate mutual aid assistance.

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