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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



ENROLLED

HOUSE BILL No. 4567

(By Delegate Mr. Spraku, Mr. Chambers and
Delegate Ashley)
[By Request of the Executive]

Passed March 9, 1996

In Effect Ninety Days From Passage

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LEGISLATIVE
SERVICES

ENROLLED
H. B. 4567

(BY MR. SPEAKER, MR. CHAMBERS, AND DELEGATE ASHLEY)
[By Request of the Executive]

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-two, article five, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to interstate civil defense and disaster compact; adoption by the state of West Virginia of the emergency management assistance compact so as to provide for mutual assistance between the states in managing emergencies or disasters.

Be it enacted by the Legislature of West Virginia:

That section twenty-two, article five, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. EMERGENCY SERVICES.

§15-5-22. Emergency Management Assistance Compact.

1 The "Emergency Management Assistance Compact" is
2 hereby approved, ratified, adopted, enacted into law and
3 entered into by the state of West Virginia with all other
4 jurisdictions legally joining therein in accordance with its
5 terms, in a form substantially as follows:

6 EMERGENCY MANAGEMENT ASSISTANCE
7 COMPACT
8 ARTICLE I - PURPOSE AND AUTHORITIES

9 This compact is made and entered into by and
10 between the participating member states which enact this
11 compact, hereinafter called party states. For the purposes
12 of this agreement, the term "states" is taken to mean the
13 several states, the Commonwealth of Puerto Rico, the
14 District of Columbia, and all United States territorial
15 possessions.

16 The purpose of this compact is to provide for mutual
17 assistance between the states entering into this compact in
18 managing any emergency or disaster that is duly declared
19 by the governor of the affected state(s), whether arising
20 from natural disaster, technological hazard, man-made
21 disaster, civil emergency aspects of resources shortages,
22 community disorders, insurgency or enemy attack.

23 This compact shall also provide for mutual
24 cooperation in emergency-related exercises, testing or
25 other training activities using equipment and personnel
26 simulating performance of any aspect of the giving and
27 receiving of aid by party states or subdivisions of party
28 states during emergencies, such actions occurring outside
29 actual declared emergency periods. Mutual assistance in
30 this compact may include the use of the states' National
31 Guard forces, either in accordance with the National
32 Guard Mutual Assistance Compact or by mutual
33 agreement between states.

34 ARTICLE II - GENERAL IMPLEMENTATION

35 Each party state entering into this compact recognizes
36 many emergencies transcend political jurisdictional
37 boundaries and that intergovernmental coordination is
38 essential in managing these and other emergencies under
39 this compact. Each state further recognizes that there will
40 be emergencies which require immediate access and
41 present procedures to apply outside resources to make a
42 prompt and effective response to such an emergency.
43 This is because few, if any, individual states have all the
44 resources they may need in all types of emergencies or the
45 capability of delivering resources to areas where
46 emergencies exist.

47 The prompt, full, and effective utilization of resources

48 of the participating states, including any resources on
49 hand or available from the Federal Government or any
50 other source, that are essential to the safety, care and
51 welfare of the people in the event of any emergency or
52 disaster declared by a party state, shall be the underlying
53 principle on which all articles of this compact shall be
54 understood.

55 On behalf of the governor of each state participating
56 in the compact, the legally designated state official who is
57 assigned responsibility for emergency management will be
58 responsible for formulation of the appropriate interstate
59 mutual aid plans and procedures necessary to implement
60 this compact.

61 ARTICLE III - PARTY STATE RESPONSIBILITIES

62 (a) It shall be the responsibility of each party state to
63 formulate procedural plans and programs for interstate
64 cooperation in the performance of the responsibilities
65 listed in this article. In formulating such plans, and in
66 carrying them out, the party states, insofar as practical,
67 shall:

68 (1) Review individual state hazards analyses and, to
69 the extent reasonably possible, determine all those
70 potential emergencies the party states might jointly suffer,
71 whether due to natural disaster, technological hazard,
72 man-made disaster, emergency aspects of resource
73 shortages, civil disorders, insurgency or enemy attack.

74 (2) Review party states' individual emergency plans
75 and develop a plan which will determine the mechanism
76 for the interstate management and provision of assistance
77 concerning any potential emergency.

78 (3) Develop interstate procedures to fill any identified
79 gaps and to resolve any identified inconsistencies or
80 overlaps in existing or developed plans.

81 (4) Assist in warning communities adjacent to or
82 crossing the state boundaries.

83 (5) Protect and assure uninterrupted delivery of
84 services, medicines, water, food, energy and fuel, search

85 and rescue and critical lifeline equipment, services and
86 resources, both human and material.

87 (6) Inventory and set procedures for the interstate
88 loan and delivery of human and material resources,
89 together with procedures for reimbursement or for-
90 giveness.

91 (7) Provide, to the extent authorized by law, for
92 temporary suspension of any statutes or ordinances that
93 restrict the implementation of the above responsibilities.

94 (b) The authorized representative of a party state may
95 request assistance of another party state by contacting the
96 authorized representative of that state. The provisions of
97 this agreement shall only apply to requests for assistance
98 made by and to authorized representatives. Requests may
99 be verbal or in writing. If verbal, the request shall be
100 confirmed in writing within thirty days of the verbal
101 request. Requests shall provide the following information:

102 (1) A description of the emergency service function
103 for which assistance is needed, such as but not limited to
104 fire services, law enforcement, emergency medical, trans-
105 portation, communications, public works and engineer-
106 ing, building inspection, planning and information assis-
107 tance, mass care, resource support, health and medical ser-
108 vices and search and rescue.

109 (2) The amount and type of personnel, equipment,
110 materials and supplies needed and a reasonable estimate of
111 the length of time they will be needed.

112 (3) The specific place and time for staging of the
113 assisting party's response and a point of contact at that
114 location.

115 (c) There shall be frequent consultation between state
116 officials who have assigned emergency management
117 responsibilities and other appropriate representatives of
118 the party states with affected jurisdictions and the United
119 States government, with free exchange of information,
120 plans and resource records relating to emergency
121 capabilities.

122

ARTICLE IV - LIMITATIONS

123 Any party state requested to render mutual aid or
124 conduct exercises and training for mutual aid shall take
125 such action as is necessary to provide and make available
126 the resources covered by this compact in accordance with
127 the terms hereof: *Provided*, That it is understood that the
128 state rendering aid may withhold resources to the extent
129 necessary to provide reasonable protection for such state.

130 Each party state shall afford to the emergency forces
131 of any party state, while operating within its state limits
132 under the terms and conditions of this compact, the same
133 powers (except that of arrest unless specifically authorized
134 by the receiving state), duties, rights and privileges as are
135 afforded forces of the state in which they are performing
136 emergency services. Emergency forces will continue
137 under the command and control of their regular leaders,
138 but the organizational units will come under the
139 operational control of the emergency services authorities
140 of the state receiving assistance. These conditions may be
141 activated, as needed, only subsequent to a declaration of a
142 state of emergency or disaster by the governor of the
143 party state that is to receive assistance or commencement
144 of exercises or training for mutual aid and shall continue
145 so long as the exercises or training for mutual aid are in
146 progress, the state of emergency or disaster remains in
147 effect or loaned resources remain in the receiving state(s),
148 whichever is longer.

149

ARTICLE V - LICENSES AND PERMITS

150 Whenever any person holds a license, certificate or
151 other permit issued by any state party to the compact
152 evidencing the meeting of qualifications for professional,
153 mechanical or other skills, and when such assistance is
154 requested by the receiving party state, such person shall be
155 deemed licensed, certified, or permitted by the state
156 requesting assistance to render aid involving such skill to
157 meet a declared emergency or disaster, subject to such
158 limitations and conditions as the governor of the
159 requesting state may prescribe by executive order or
160 otherwise.

161

ARTICLE VI - LIABILITY

162 Officers or employees of a party state rendering aid
163 in another state pursuant to this compact shall be
164 considered agents of the requesting state for tort liability
165 and immunity purposes; and no party state or its officers
166 or employees rendering aid in another state pursuant to
167 this compact shall be liable on account of any act or
168 omission in good faith on the part of such forces while so
169 engaged or on account of the maintenance or use of any
170 equipment or supplies in connection therewith. Good
171 faith in this article shall not include willful misconduct,
172 gross negligence or recklessness.

173

ARTICLE VII - SUPPLEMENTARY AGREEMENTS

174 Inasmuch as it is probable that the pattern and detail
175 of the machinery for mutual aid among two or more states
176 may differ from that among the states that are party here-
177 to, this instrument contains elements of a broad base com-
178 mon to all states, and nothing herein contained shall pre-
179 clude any state from entering into supplementary agree-
180 ments with another state or affect any other agreements
181 already in force between states. Supplementary agree-
182 ments may comprehend, but shall not be limited to, provi-
183 sions for evacuation and reception of injured and other
184 persons and the exchange of medical, fire, police, public
185 utility, reconnaissance, welfare, transportation and commu-
186 nications personnel, and equipment and supplies.

187

ARTICLE VIII - COMPENSATION

188 Each party state shall provide for the payment of
189 compensation and death benefits to injured members of
190 the emergency forces of that state and representatives of
191 deceased members of such forces in case such members
192 sustain injuries or are killed while rendering aid pursuant
193 to this compact, in the same manner and on the same
194 terms as if the injury or death were sustained within their
195 own state.

196

ARTICLE IX - REIMBURSEMENT

197 Any party state rendering aid in another state
198 pursuant to this compact shall be reimbursed by the party

199 state receiving such aid for any loss or damage to or
200 expense incurred in the operation of any equipment and
201 the provision of any service in answering a request for aid
202 and for the costs incurred in connection with such
203 requests: *Provided*, That any aiding party state may
204 assume, in whole or in part, such loss, damage, expense or
205 other cost, or may loan such equipment or donate such
206 services to the receiving party state without charge or cost:
207 *Provided, however*, That any two or more party states may
208 enter into supplementary agreements establishing a dif-
209 ferent allocation of costs among those states. Article VIII
210 expenses shall not be reimbursable under this provision.

211 ARTICLE X - EVACUATION

212 Plans for the orderly evacuation and interstate
213 reception of portions of the civilian population as the
214 result of any emergency or disaster of sufficient
215 proportions to so warrant, shall be worked out and
216 maintained between the party states and the emergency
217 management/services directors of the various jurisdictions
218 where any type of incident requiring evacuations might
219 occur. Such plans shall be put into effect by request of
220 the state from which evacuees come and shall include the
221 manner of transporting such evacuees, the number of
222 evacuees to be received in different areas, the manner in
223 which food, clothing, housing and medical care will be
224 provided, the registration of the evacuees, the providing of
225 facilities for the notification of relatives or friends, and the
226 forwarding of such evacuees to other areas or the bringing
227 in of additional materials, supplies and all other relevant
228 factors. Such plans shall provide that the party state
229 receiving evacuees and the party state from which the
230 evacuees come shall mutually agree as to reimbursement
231 of out-of-pocket expenses incurred in receiving and
232 caring for such evacuees, for expenditures for trans-
233 portation, food, clothing, medicines and medical care, and
234 like items. Such expenditures shall be reimbursed as
235 agreed by the party state from which the evacuees come.
236 After the termination of the emergency or disaster, the
237 party state from which the evacuees come shall assume the
238 responsibility for the ultimate support of repatriation of
239 such evacuees.

240 ARTICLE XI - IMPLEMENTATION

241 (a) This compact shall become operative immediately
242 upon its enactment into law by any two states; thereafter,
243 this compact shall become effective as to any other state
244 upon its enactment by such state.

245 (b) Any party state may withdraw from this compact
246 by enacting a statute repealing the same, but no such
247 withdrawal shall take effect until thirty days after the
248 governor of the withdrawing state has given notice in
249 writing of such withdrawal to the governors of all other
250 party states. Such action shall not relieve the withdrawing
251 state from obligations assumed hereunder prior to the
252 effective date of withdrawal.

253 (c) Duly authenticated copies of this compact and of
254 such supplementary agreements as may be entered into
255 shall, at the time of their approval, be deposited with each
256 of the party states and with the federal emergency
257 management agency and other appropriate agencies of the
258 United States government.

259 ARTICLE XII - VALIDITY

260 This compact shall be construed to effectuate the
261 purposes stated in Article I hereof. If any provision of
262 this compact is declared unconstitutional, or the applic-
263 ability thereof to any person or circumstances is held
264 invalid, the constitutionality of the remainder of this
265 compact and the applicability thereof to other persons and
266 circumstances shall not be affected thereby.

267 ARTICLE XIII - ADDITIONAL PROVISIONS

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

276 ARTICLE XIV - REPORTING TO LEGISLATURE

277 The director of the office of emergency services shall,
278 on or before the first day of January, one thousand nine
279 hundred ninety-seven, provide to the joint committee on
280 government and finance copies of all mutual aid plans and
281 procedures promulgated, developed or entered into after
282 the effective date of this section. The director shall annual-
283 ly thereafter provide the joint committee on government
284 and finance with copies of all new or amended mutual aid
285 plans and procedures on or before the first day of January
286 of each year.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Harold Schooner

Chairman Senate Committee

Rudy Deaunt

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Darrell E. White

Clerk of the Senate

Gregory R. Gray

Clerk of the House of Delegates

Earl Ray Tomblin

President of the Senate

Ed Clatter

Speaker of the House of Delegates

The within is approved this the 29th
day of March, 1996.

Easton Caperton

Governor

SENTED TO THE

G GOVERNOR

Date

3/27/96

Time

2:45pm