

# HOUSE BILL REPORT

## HB 1073

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### As Passed Legislature

**Title:** An act relating to emergency workers.

**Brief Description:** Concerning limited emergency worker volunteer immunity.

**Sponsors:** By Representatives Schual-Berke, O'Brien, Anderson, Hudgins, Appleton, Green, Rodne, Ormsby, Cody, Dickerson, Morrell, Kenney and Pearson; by request of Military Department.

**Brief History:**

**Committee Activity:**

Judiciary: 1/19/07, 1/24/07 [DP].

**Floor Activity:**

Passed House: 2/5/07, 95-0.

Senate Amended.

Passed Senate: 4/11/07, 48-0.

House Refused to Concur.

Senate Receded.

Passed Senate: 4/17/07, 47-0.

Passed Legislature.

### Brief Summary of Bill

- Enhances liability indemnity for paid and volunteer emergency management workers.
- Expands the category of volunteer emergency workers who are covered by liability immunity provisions.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 10 members: Representatives Lantz, Chair; Rodne, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Ahern, Flannigan, Kirby, Moeller, Pedersen, Ross and Williams.

**Staff:** Bill Perry (786-7123).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

A variety of statutes provide various forms of immunity or indemnity from liability for the actions of certain volunteers, government employees, so-called "good Samaritans," and others. The state's Emergency Management Act (EMA) also provides immunity and indemnity for emergency management workers.

The EMA is administered by the Military Department under the direction of the state's Adjutant General. The EMA requires the state to accept liability for harm caused by acts arising from good faith attempts to comply with the EMA. The state must also indemnify a worker who has been "appointed and regularly enrolled" as an emergency worker or who is an employee of the state or a local government. This indemnification covers both liability the worker may have incurred and injury or damage the worker may have suffered as a result of the worker's good faith compliance with the EMA. The indemnity does not cover acts of a worker that amount to willful misconduct, gross negligence, or bad faith.

In 2006, the Legislature enacted a provision that grants immunity from liability for the acts of registered emergency workers who are retired volunteer medical workers. The immunity covers providing assistance or transportation during an emergency or during approved training. This immunity extends to:

- the volunteer;
- the volunteer's supervisor or employer;
- any health care facility;
- the owner of property where the volunteer acted;
- all governments; and
- any local entity that registered the volunteer.

The immunity covers acts of a medical volunteer that are:

- without compensation or the expectation of compensation;
- within the scope of the volunteer's duties; and
- under the direction of the volunteer's local registering agency.

Immunity does not extend to a volunteer's acts of gross negligence or willful or wanton misconduct.

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**Summary of Bill:**

The indemnity provisions of the EMA are expanded to cover explicitly liability incurred while traveling to or from an emergency or while engaged in or traveling to or from a search and rescue operation or training exercise. The state provides no indemnity for liability that might arise out of actions by a volunteer for which the volunteer has immunity.

The volunteer immunity from liability provisions are expanded to cover all volunteer emergency workers, not just medical volunteers. To be covered, a volunteer must be

registered with the Military Department or a local emergency management organization. References in the immunity provision that are to medical personnel or facilities in particular are replaced with more general terms. For instance, "any" facility, not just a health care facility, is immune from liability for the negligence of a volunteer. The immunity provision is also expressly extended to cover search and rescue operations and authorized training exercises.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) The bill will encourage people to volunteer. There are emergencies of a scope and nature that government alone cannot adequately respond. Some who would like to volunteer do not do so because of concerns about possible liability. There is a large gap between the public's expectation during an emergency and the government's ability to respond. The bill helps narrow that gap by encouraging more volunteer participation. Volunteers who will receive immunity under the bill will be screened and selected carefully. Only activities significant enough to require coordination by the Military Department are covered by the bill. A volunteer will have to be registered and issued a mission number for a specific emergency event before the bill applies. The bill is a good idea, but it should be amended to include volunteer aerial search and rescue personnel in the program administered by the Department of Transportation.

(Opposed) None.

**Persons Testifying:** Major General Lowenberg, Washington Military Department; Mary Selecky, Department of Health; Robert Cross, Medical Reserve Corps of Eastern Washington; Art Jordan, Washington Search and Rescue Advisory Council; Gordon Walgren, Washington Fire Chiefs, and Washington State Emergency Managers Association; Steve Reinmuth, Washington State Department of Transportation; Bill Basl, State Commission for National and Community Service; Steve Bailey, Washington State Emergency Managers Association; Tamare Warnke, Washington State Nurses Association; and Cliff Webster, Architects and Engineers Legislative Council, and Washington State Medical Association.

**Persons Signed In To Testify But Not Testifying:** None.