

# HOUSE BILL REPORT

## ESHB 1406

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**As Passed House:**  
February 26, 2011

**Title:** An act relating to intrastate building safety mutual aid in the event of emergencies and other situations that temporarily render a jurisdiction incapable of providing required building safety services.

**Brief Description:** Establishing the intrastate building safety mutual aid system.

**Sponsors:** House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hunt, Ross, Appleton, Armstrong, Hurst and Stanford).

**Brief History:**

**Committee Activity:**

Public Safety & Emergency Preparedness: 2/9/11, 2/11/11 [DPS].

**Floor Activity:**

Passed House: 2/26/11, 97-0.

**Brief Summary of Engrossed Substitute Bill**

- Establishes the Intrastate Building Safety Mutual Aid (IBSMA) System to provide a reciprocal exchange of resources and assistance among member jurisdictions.
- Establishes procedures for a jurisdiction requesting assistance through the IBSMA System.
- Establishes procedures for reimbursing responding jurisdictions for the true and full-value of assistance provided under the IBSMA System.
- Establishes an IBSMA Oversight Committee that is responsible for developing and updating the guidelines and procedures relating to the operations of the IBSMA System.

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### HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson,

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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.*

Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

**Staff:** Yvonne Walker (786-7841).

**Background:**

Mutual aid is a term in organizational theory used to signify a voluntary reciprocal exchange of resources and services for mutual benefit. In emergency services, mutual aid is an agreement among emergency responders to lend assistance across jurisdictional boundaries. This may occur due to an emergency response that exceeds local resources, such as a disaster or a multiple-alarm fire. Mutual aid may be ad hoc and requested only when such an emergency occurs. It may also be a formal standing agreement for cooperative emergency management on a continuing basis, such as ensuring that resources are dispatched from the nearest fire station, regardless of which side of the jurisdictional boundary the incident is on. Various state and local governmental entities in Washington are involved in emergency management and preparedness.

The Washington Association of Building Officials. The Washington Association of Building Officials is a nonprofit, professional association of state, county, city, and town officials in Washington engaged in the development, enforcement, and administration of building construction codes and ordinances. Membership includes building officials and inspectors, planners, architects, structural engineers, and others.

The Emergency Management Division. The Emergency Management Division of the Washington Military Department administers emergency management and disaster relief programs. The Director of the Military Department (Director) is appointed by the Governor and is required to develop a comprehensive emergency management plan including an analysis of the natural, technological, or human-caused hazards that could affect the state. Local jurisdictions are directed to establish comprehensive local emergency management plans, and submit their plans to the Director for recommendations. Local jurisdictions may also establish and operate joint local emergency management organizations.

The Emergency Management Council. The Emergency Management Council (Council) is a 17-member Council appointed by the Governor to advise the Governor and the Director on state and local emergency management matters. The Council includes representatives from various state and local agencies as well as emergency medical personnel and private industry. Among other duties, the Council must ensure the Governor receives an annual assessment of statewide emergency preparedness. In the event of a disaster beyond local control, the Governor, through the Director, may assume operational control over all or any part of emergency management functions in the state. In addition to using state and local agencies and employees for emergency response, the Governor and the chief executives or emergency management directors of counties, cities, and towns have authority to press citizens into emergency management service if the Governor proclaims a disaster.

The Washington State Emergency Response Commission. The Washington State Emergency Response Commission (SERC) was created in accordance with a federal law that establishes requirements for federal, state and local governments, and private industry regarding

emergency response planning. The membership of the SERC includes representatives from private industry, and state and local agencies. The SERC is a subcommittee of the Council and deals with hazardous chemical type emergency hazards. Among other purposes, the SERC designates and oversees local emergency planning districts or committees and facilitates preparation and implementation of emergency planning and preparedness.

The Washington State Patrol Fire Protection Bureau. The Washington State Patrol Fire Protection Bureau provides training to first responders on hazardous material incidents and is the Incident Command Agency if an incident occurs along any state route or interstate freeway. The terrorism unit offers training and information regarding terrorism response and extremist groups. The training is meant for all first responders, but the terrorism unit also provides information to agencies and people on these topics.

### **Summary of Engrossed Substitute Bill:**

The Intrastate Building Safety Mutual Aid (IBSMA) System is established to provide mutual assistance among member jurisdictions in the case of a building safety emergency or to aid in training and exercises. A building safety emergency means a situation that temporarily renders a building safety department incapable of providing building safety services. Mutual assistance may include immediate responses to a building safety emergency, effort to help mitigate or prevent further damages, or recovery activities.

Membership of the IBSMA System. Member jurisdictions of the IBSMA System include counties, cities, towns, and tribal government entities that have provided a written declaration of their intention to participate, and any other governmental entities with responsibilities of ensuring building safety. Nothing precludes a jurisdiction's membership in the IBSMA System from entering into or interfering with other mutual aid agreements as permitted by law.

Request for Assistance. Member jurisdictions of the IBSMA System may request mutual aid assistance from other member jurisdictions to respond to, mitigate, or recover from a building safety emergency, or for participation of other member jurisdictions in authorized drills or exercises, provided that:

- the request for assistance is from the chief executive officer of the requesting jurisdiction and that jurisdiction is experiencing a building safety emergency or is undertaking drills or exercises;
- the verbal request for assistance is confirmed by a written request as as soon as practicable;
- a responding member jurisdiction may withhold resources for any reason;
- emergency responders and resources from a responding member jurisdiction are under the general command of their jurisdiction but under the operation command of the requesting jurisdiction; and
- a response to a building safety emergency under an IBSMA agreement is voluntary.

A responding member jurisdiction may designate, in writing, persons to serve as temporary emergency responders for the purposes of deploying such persons under the IBSMA System. A designation as a temporary emergency responder does not grant any right to wages, salary,

pensions, health benefits, seniority or other benefits. The IBSMA Oversight Committee (Committee) must develop policies detailing the temporary designation process.

Reimbursement. A jurisdiction requesting mutual aid assistance must reimburse responding jurisdictions for the true and full-value of assistance. Requests for reimbursement must be made within 30 days within the procedures and rates developed by the Committee. Responding jurisdictions may donate assistance and resources to a requesting jurisdiction. However, if a member jurisdiction has a dispute over the reimbursement payments for assistance, that jurisdiction may send a written request to the other member jurisdiction to resolve the matter within 30 days. If the dispute is not resolved within 30 days following receipt of the written request, either party may request arbitration.

Reciprocity of Professional Qualifications. There is reciprocity for any emergency responder holding a license, certificate, or other permit evidencing qualification in a professional, mechanical, or other skill, issued by the State of Washington or a political subdivision. That person is deemed to be licensed, certified, or permitted in the requesting member jurisdiction for the duration of the emergency, drill, or exercise, subject to any limitations and conditions that the chief executive officer of the requesting member jurisdiction may prescribe.

Injuries Under the Mutual Aid Agreement. If an employee dies or is injured during the course of their employment while providing assistance under the IBSMA System, such employee is eligible for benefits that would otherwise be available for injuries sustained or death in the course of employment.

Immunity. For purposes of tort liability or immunity, an emergency responder of a responding jurisdiction is considered an agent of the jurisdiction that has requested assistance. A responding jurisdiction rendering aid under the IBSMA System is not liable for the acts or omissions in good faith of the responding jurisdiction's emergency responders or resources. Good faith does not include willful misconduct, gross negligence, or recklessness. The IBSMA System does not provide rights or privileges to any person responding for any reason if a member jurisdiction has not requested or authorized that person to respond to the emergency.

Intrastate Building Safety Mutual Aid Oversight Committee. The Committee is created as a Committee of the Washington Association of Building Officials. It is representative of building safety agencies and disciplines as well as local political subdivisions.

The President of the Washington Association of Building Officials will appoint members of the Committee from interested applicants. The Committee, which will meet at least annually, will be responsible for developing and updating the IBSMA System's comprehensive guidelines and procedures implementing the IBSMA System. The guidelines, at a minimum, must include: projected or anticipated costs, checklists for requesting and providing mutual aid assistance, recordkeeping for all member jurisdictions, rates and reimbursement procedures, and other necessary implementation instructions and forms.

The Committee must review the progress and status of the IBSMA System and draft any necessary guidelines, policies, and procedures to correct any deficiencies in the IBSMA System.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) A few years ago, when Lewis County was experiencing floods and mudslides, it was difficult for building officials from other Washington jurisdictions to provide assistance to that area. This bill will facilitate the mutual assistance among local jurisdictions so that neighboring jurisdictions can help out in situations where there is an emergency or disaster. Over the years, it has been found that it is easier to send emergency building responders to other states to help out in an emergency (such as during Hurricane Katrina) than it is to send them to other local jurisdictions here in the State of Washington. Unless each local jurisdiction has a mutual aid or local agreement in place prior to a disaster, building officials cannot do intrastate inspections. Washington's building officials can go to Mississippi to help out, but they do not have the authority to help out other jurisdictions within our own state.

Currently, due to the recession, jurisdictions have had to lay off half their staff. These jurisdictions would be hard pressed for help during a state of emergency. In addition, there are several hundreds of municipalities across the state. It is not practicable to sign interlocal agreements with every county, city, and town across Washington. Emergency response would be universal across the state under this bill. This bill will allow building officials to offer assistance in non-declared emergencies as well as in emergency situations. This comes with no cost to the state.

(In support with concerns) There is support for this bill; however, there needs to be an amendment to allow for a coordination of efforts through the incident command system.

(Opposed) None.

**Persons Testifying:** (In support) Representative Hunt, prime sponsor; Lon Keirse, City of Issaquah; L.G. Nelson, City of Centralia; Gary Allsup, City of Lacey; Tom Hill, City of Olympia; and Bret Heath, City of Issaquah Emergency Management.

(In support with concerns) Mike Brown, Washington Fire Chiefs.

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