

HOUSE BILL REPORT

SHB 1585

As Passed House:
February 26, 2011

Title: An act relating to intrastate mutual aid in the event of emergencies.

Brief Description: Establishing the intrastate mutual aid system.

Sponsors: House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Eddy, Springer and Ryu).

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 Substitute Bill

- Establishes the Intrastate Mutual Aid System to provide mutual assistance in an emergency among political subdivisions and federally recognized Indian tribes that choose to participate.
- Authorizes any member jurisdiction to request mutual assistance for: (1) response, mitigation, or recovery activities related to an emergency; or (2) participation in drills or exercises in preparation for an emergency.
- Establishes procedures relating to how jurisdictions may request assistance from other jurisdictions in response to an emergency or for participating in drills or exercises.
- Provides that an 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 is deemed to be licensed and certified in the requesting member jurisdiction for the duration of the emergency, drill, or exercise.
- Provides that if an emergency responder employee dies or is injured during the course of his employment while providing assistance under the Intrastate Mutual Aid System, such an employee is eligible for benefits that would otherwise be available for injuries sustained or death in the course of employment.

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.

- Requires a jurisdiction requesting assistance to reimburse a responding jurisdiction for the true and full-value of all assistance provided under the Intrastate Mutual Aid System and establishes procedures for when a dispute arises regarding reimbursement.
- Establishes the Intrastate Mutual Aid System Oversight Committee as a subcommittee of the Emergency Management Council, which is charged with developing and updating guidelines relating to implementing the Intrastate Mutual Aid System.

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, 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 Emergency Management Division. The Emergency Management Division of the Washington Military Department administers emergency management and disaster relief programs. The Director of the Washington 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 Substitute Bill:

The Intrastate Mutual Aid System is established to provide mutual assistance in an emergency among political subdivisions and federally recognized Indian tribes that choose to participate. Mutual assistance may be requested by any member jurisdiction for: (1) response, mitigation, or recovery activities related to an emergency; or (2) participation in drills or exercises in preparation for an emergency.

Membership of the Intrastate Mutual Aid Agreement. Member jurisdictions of the Intrastate Mutual Aid System include a political subdivision and any federally recognized Indian tribe that has provided a declaration of their intention to participate. A member jurisdiction that chooses to no longer participate in the Intrastate Mutual Aid System may submit a notice to the Washington Military Department declaring that it does not want to participate in the Intrastate Mutual Aid System. Nothing permits member jurisdictions from entering into or interfering with other mutual aid agreements, including the Washington State Fire Services Mobilization and the Law Enforcement Mobilization plans, as permitted by law.

Request for Assistance. Member jurisdictions of the Intrastate Mutual Aid System may request and receive assistance from other member jurisdictions for response, mitigation, or recovery activities related to an emergency or to participate in drills or exercises in preparation for an emergency, provided that:

- Prior to requesting assistance, a requesting jurisdiction must: (1) have determined an emergency exists within its territorial limits; or (2) the requesting jurisdiction anticipates undertaking drills or exercises in preparation for emergency.

- The chief executive officer of a requesting jurisdiction (or his or her designee) must request assistance directly from the chief executive officer of another member jurisdiction. A verbal request for assistance will suffice; however, it must be confirmed in writing within 30 days.
- Assistance requested from another jurisdiction may be withheld or withdrawn at any time and for any reason.
- A responding jurisdiction designates in writing all assistance it provides to a requesting member jurisdiction at the time so long as it is consistent with the guidelines and procedures developed by the Interstate Mutual Aid Oversight Committee (Committee). This document must be delivered to the requesting jurisdiction within 30 days after the assistance is provided.
- The jurisdiction requesting assistance only has operational control of the assistance provided and may not interfere with a responding member jurisdiction's right to withdraw assistance.

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 has prescribe in writing.

Injuries Under the Mutual Aid Agreement. If an emergency responder employee dies or is injured during the course of his employment while providing emergency responder assistance under the Intrastate Mutual Aid System, such an employee is only eligible for benefits that would otherwise be available for death or injuries sustained in the course of employment with the responding member jurisdiction. An emergency responder is not an employee of the requesting member jurisdiction and is not entitled to any right, privilege, or benefit of employment from the requesting member jurisdiction, including but not limited to, compensation, wages, salary, leave, pensions, or health benefits.

Mutual Aid Reimbursement. A requesting member jurisdiction shall reimburse a responding member jurisdiction for the true and full value of all assistance provided under the Intrastate Mutual Aid System. However, a responding member jurisdiction may donate assistance to a requesting member jurisdiction under the mutual aid agreement.

If a dispute regarding reimbursement arises between member jurisdictions, the member jurisdiction asserting the dispute shall provide written notice to the other jurisdiction identifying the dispute. If a resolution is not resolved within 90 days after receipt of the dispute notice by the other party, either party may invoke binding arbitration to resolve the reimbursement dispute by given written notice to the other party. Within 30 days after receipt of the notice invoking binding arbitration, each party must furnish the other a list of acceptable arbitrators. The parties shall select an arbitrator. If there is a failure to agree on an arbitrator, each party shall select one arbitrator and the two arbitrators shall select a third arbitrator for an arbitration panel. Costs of the arbitration, including compensation for the arbitrator's services, must be borne equally by the parties participating in the arbitration. Each party bears its own costs and expenses, including legal fees and witness expenses, in connection with the arbitration proceeding.

Immunity. For purposes of tort liability or immunity, an emergency responder of a responding member jurisdiction is considered an agent of the requesting member jurisdiction. A responding jurisdiction providing assistance under the Intrastate Mutual Aid System is not liable for any act or omission while providing or attempting to provide assistance in good faith. Good faith does not include willful misconduct, gross negligence, or recklessness.

The Intrastate Mutual Aid Oversight Committee. The Committee is created as a subcommittee of the Council. The Committee consists of a maximum of five members who must be appointed by the Council chair from Council membership. The chair of the Committee is the Washington Military Department representative appointed as a member of the Council. Meetings of the Committee must be held at least annually.

The Committee must develop and update guidelines and procedures to facilitate implementation of the Intrastate Mutual Aid System. This includes, but is not limited to, projected or anticipated costs, checklists and forms for requesting and providing assistance, recordkeeping, reimbursement procedures, and other necessary implementation issues.

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) There is value and need for a statewide mutual aid agreement. If the state had mutual aid legislation in place several years ago, it would have expedited snow equipment to stricken counties during the 2008 snow storm. It would have also provided resource sharing during the Lewis County floods.

This bill is modeled on a best practice template recommended by the National Emergency Management Association. Participation is completely voluntary and it includes an opt-out provision to allow jurisdictions the option of not participating if they so choose. It does not force or require participation or the sharing of resources.

This bill satisfies National Incident Management's national mutual aid requirements. It provides immunity and tort protection for all involved. It does not affect existing or future aid agreements. As a matter of fact, 34 states have already adopted similar agreements across the United States. The enactment of this legislation will help to move people and resources around quickly to help our citizens.

(Opposed) The Mason County Emergency Management is in support of a single piece of legislation but the mutual aid agreement should be made just as easy to opt-in as it is to opt-out. There are commissioners in Mason County that oppose the opt-out provision of the bill and would prefer the opt-in method since that better mirrors the existing process that local governments use.

Persons Testifying: (In support) Representative Eddy, prime sponsor; Dick Bower, City of Gig Harbor; Ron Newbry, Washington Association of Building Officials; Barb Graff, Seattle Office of Emergency Management; Bret Heath, City of Issaquah Emergency Management; Jim Mullen, Washington State Emergency Management Division; Bill Lokey; and Hillman Mitchell, King County Office of Emergency Management.

(Opposed) Martin Best, Mason County Emergency Management.

Persons Signed In To Testify But Not Testifying: None.