
SENATE BILL 5420

State of Washington

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By Senators Hobbs, Swecker, Pridemore, Kastama, Tom, and White

Read first time 01/25/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to intrastate mutual aid in the event of
2 emergencies; amending RCW 38.52.040; and adding a new chapter to Title
3 38 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Assistance" means emergency responders and resources provided
8 by a responding member jurisdiction in response to a request from a
9 requesting member jurisdiction.

10 (2) "Department" means the state military department.

11 (3) "Emergency" means an event or set of circumstances that: (a)
12 Demand immediate action to preserve public health, protect life,
13 protect public property, or to provide relief to any stricken community
14 overtaken by such occurrence; or (b) reach such a dimension or degree
15 of destructiveness as to warrant the governor declaring a state of
16 emergency pursuant to RCW 43.06.010.

17 (4) "Emergency responder" means an employee of a responding member
18 jurisdiction who is designated in writing by that responding member
19 jurisdiction as possessing skills, qualifications, training, knowledge,

1 or experience that may be needed, pursuant to a request for assistance
2 under this chapter, for: (a) Response, mitigation, or recovery
3 activities related to an emergency; or (b) participation in drills or
4 exercises in preparation for an emergency.

5 (5) "Operational control" means the limited authority to direct
6 tasks, assignments, and use of assistance provided pursuant to a
7 request for assistance under this chapter to address: (a) Response,
8 mitigation, or recovery activities related to an emergency; or (b)
9 participation in drills or exercises in preparation for an emergency.

10 "Operational control" does not include any right, privilege, or benefit
11 of ownership or employment such as disposition, compensation, wages,
12 salary, pensions, health benefits, leave, seniority, discipline,
13 promotion, hiring, or firing.

14 (6) "Political subdivision" means any county, city, or town in the
15 state of Washington.

16 (7) "Requesting member jurisdiction" means a member jurisdiction
17 that requests assistance from another member jurisdiction under this
18 chapter.

19 (8) "Resources" includes supplies, materials, equipment,
20 facilities, energy, services, information, systems, and other assets
21 except for emergency responders that may be needed, pursuant to a
22 request for assistance under this chapter, for: (a) Response,
23 mitigation, or recovery activities related to an emergency; or (b)
24 participation in drills or exercises in preparation for an emergency.

25 (9) "Responding member jurisdiction" means a member jurisdiction
26 providing or intending to provide assistance to a requesting member
27 jurisdiction under this chapter.

28 NEW SECTION. **Sec. 2.** (1) The intrastate mutual aid system is
29 established to provide for mutual assistance in an emergency among
30 political subdivisions and federally recognized Indian tribes that
31 choose to participate as member jurisdictions.

32 (2) Except as provided in subsection (3) of this section, member
33 jurisdictions of the intrastate mutual aid system include:

- 34 (a) A political subdivision; and
- 35 (b) Any federally recognized Indian tribe located within the
36 boundaries of the state of Washington upon receipt by the department of

1 a tribal government resolution declaring its intention to be a member
2 jurisdiction in the intrastate mutual aid system under this chapter.

3 (3)(a) A member jurisdiction is released from membership in the
4 intrastate mutual aid system established under this chapter upon
5 receipt by the department of a resolution or ordinance declaring that
6 the member jurisdiction elects not to participate in the system.

7 (b) Nothing in this chapter may be construed to affect other mutual
8 aid systems or agreements otherwise authorized by law, nor preclude a
9 political subdivision or Indian tribe from entering or participating in
10 those mutual aid systems or agreements.

11 (4) Mutual assistance may be requested by, and provided to, member
12 jurisdictions under this chapter for: (a) Response, mitigation, or
13 recovery activities related to an emergency; or (b) participation in
14 drills or exercises in preparation for an emergency.

15 NEW SECTION. **Sec. 3.** A member jurisdiction may request assistance
16 from other member jurisdictions under the intrastate mutual aid system
17 for response, mitigation, or recovery activities related to an
18 emergency, or to participate in drills or exercises in preparation for
19 an emergency, subject to each of the following provisions:

20 (1) Prior to requesting assistance, a requesting member
21 jurisdiction must: (a) Have determined an emergency exists within its
22 territorial limits consistent with applicable law, rule, regulation,
23 code, ordinance, resolution, or other applicable legal authority; or
24 (b) anticipate undertaking drills or exercises in preparation for an
25 emergency.

26 (2) The chief executive officer of a requesting member
27 jurisdiction, or authorized designee, must request assistance directly
28 from the chief executive officer, or authorized designee, of another
29 member jurisdiction. If this request is verbal, it must be confirmed
30 in writing within thirty days after the date of the request.

31 (3) A responding member jurisdiction may withhold or withdraw
32 requested assistance at any time and for any reason, in its sole
33 discretion.

34 (4) A responding member jurisdiction shall designate in writing all
35 assistance it provides to a requesting member jurisdiction at the time
36 provided consistent with the guidelines and procedures developed by the

1 intrastate mutual aid committee, and deliver copies of this
2 documentation to the requesting member jurisdiction within thirty days
3 after the assistance is provided.

4 (5) The requesting member jurisdiction only has operational control
5 of assistance provided under this chapter, which may not interfere with
6 a responding member jurisdiction's right to withdraw assistance.

7 NEW SECTION. **Sec. 4.** An emergency responder holding a license,
8 certificate, or other permit evidencing qualification in a
9 professional, mechanical, or other skill, issued by the state of
10 Washington or a political subdivision thereof, is deemed to be
11 licensed, certified, or permitted in the requesting member jurisdiction
12 for the duration of the emergency, drill, or exercise, subject to any
13 limitations and conditions the chief executive officer of the
14 requesting member jurisdiction may prescribe in writing.

15 NEW SECTION. **Sec. 5.** An emergency responder designated by a
16 responding member jurisdiction under section 3(4) of this act, who dies
17 or sustains an injury while providing assistance to a requesting member
18 jurisdiction as an emergency responder under this chapter, is entitled
19 to receive only the benefits otherwise authorized by law for death or
20 injury sustained in the course of employment with the responding member
21 jurisdiction. Any such benefits provided by a responding member
22 jurisdiction to an emergency responder must be included in the true and
23 full value of assistance provided for purposes of reimbursement under
24 section 7 of this act.

25 NEW SECTION. **Sec. 6.** An emergency responder is not an employee of
26 the requesting member jurisdiction and is not entitled to any right,
27 privilege, or benefit of employment from the requesting member
28 jurisdiction, including but not limited to, compensation, wages,
29 salary, leave, pensions, health, or other advantage.

30 NEW SECTION. **Sec. 7.** (1) A requesting member jurisdiction shall
31 reimburse a responding member jurisdiction for the true and full value
32 of all assistance provided under this chapter. However, if authorized
33 by law, a responding member jurisdiction may donate assistance provided
34 under this chapter to a requesting member jurisdiction.

1 (2) If a dispute regarding reimbursement arises between member
2 jurisdictions, the member jurisdiction asserting the dispute shall
3 provide written notice to the other identifying the reimbursement
4 issues in dispute. If the dispute is not resolved within ninety days
5 after receipt of the dispute notice by the other party, either party to
6 the dispute may invoke binding arbitration to resolve the reimbursement
7 dispute by giving written notice to the other party. Within thirty
8 days after receipt of the notice invoking binding arbitration, each
9 party shall furnish the other a list of acceptable arbitrators. The
10 parties shall select an arbitrator; failing to agree on an arbitrator,
11 each party shall select one arbitrator and the two arbitrators shall
12 select a third arbitrator for an arbitration panel. Costs of the
13 arbitration, including compensation for the arbitrator's services, must
14 be borne equally by the parties participating in the arbitration and
15 each party bears its own costs and expenses, including legal fees and
16 witness expenses, in connection with the arbitration proceeding.

17 NEW SECTION. **Sec. 8.** For purposes of tort liability or immunity,
18 an emergency responder of a responding member jurisdiction is
19 considered an agent of the requesting member jurisdiction. No
20 responding member jurisdiction or its officers or employees providing
21 assistance under this chapter is liable for any act or omission while
22 providing or attempting to provide assistance under this chapter in
23 good faith. For purposes of this section, good faith does not include
24 willful misconduct, gross negligence, or recklessness.

25 **Sec. 9.** RCW 38.52.040 and 1995 c 269 s 1202 are each amended to
26 read as follows:

27 (1) There is hereby created the emergency management council
28 (hereinafter called the council), to consist of not more than seventeen
29 members who shall be appointed by the governor. The membership of the
30 council shall include, but not be limited to, representatives of city
31 and county governments, sheriffs and police chiefs, the Washington
32 state patrol, the military department, the department of ecology, state
33 and local fire chiefs, seismic safety experts, state and local
34 emergency management directors, search and rescue volunteers, medical
35 professions who have expertise in emergency medical care, building
36 officials, and private industry. The representatives of private

1 industry shall include persons knowledgeable in emergency and hazardous
2 materials management. The council members shall elect a chairman from
3 within the council membership. The members of the council shall serve
4 without compensation, but may be reimbursed for their travel expenses
5 incurred in the performance of their duties in accordance with RCW
6 43.03.050 and 43.03.060 as now existing or hereafter amended.

7 (2) The emergency management council shall advise the governor and
8 the director on all matters pertaining to state and local emergency
9 management. The council may appoint such ad hoc committees,
10 subcommittees, and working groups as are required to develop specific
11 recommendations for the improvement of emergency management practices,
12 standards, policies, or procedures. The council shall ensure that the
13 governor receives an annual assessment of statewide emergency
14 preparedness including, but not limited to, specific progress on hazard
15 mitigation and reduction efforts, implementation of seismic safety
16 improvements, reduction of flood hazards, and coordination of hazardous
17 materials planning and response activities. The council or a
18 subcommittee thereof shall periodically convene in special session and
19 serve during those sessions as the state emergency response commission
20 required by P.L. 99-499, the emergency planning and community right-to-
21 know act. When sitting in session as the state emergency response
22 commission, the council shall confine its deliberations to those items
23 specified in federal statutes and state administrative rules governing
24 the coordination of hazardous materials policy. The council shall
25 review administrative rules governing state and local emergency
26 management practices and recommend necessary revisions to the director.

27 (3)(a) The intrastate mutual aid committee is created and is a
28 subcommittee of the emergency management council. The intrastate
29 mutual aid committee consists of not more than five members who must be
30 appointed by the council chair from council membership. The chair of
31 the intrastate mutual aid committee is the military department
32 representative appointed as a member of the council. Meetings of the
33 intrastate mutual aid committee must be held at least annually.

34 (b) In support of the intrastate mutual aid system established in
35 chapter 38.--- RCW (the new chapter created in section 11 of this act),
36 the intrastate mutual aid committee shall develop and update guidelines
37 and procedures to facilitate implementation of the intrastate mutual
38 aid system by member jurisdictions, including but not limited to the

1 following: Projected or anticipated costs; checklists and forms for
2 requesting and providing assistance; recordkeeping; reimbursement
3 procedures; and other implementation issues. These guidelines and
4 procedures are not subject to the rule making requirements of chapter
5 34.05 RCW.

6 NEW SECTION. **Sec. 10.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act constitute
11 a new chapter in Title 38 RCW.

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