

CS FOR SENATE BILL NO. 235(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 2/1/02

Referred: Labor and Commerce, Judiciary

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to emergency and disaster relief forces as state employees for purposes of workers' compensation benefits; relating to the Emergency Management Assistance Compact and the implementation of the compact; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** AS 23.30.244 is repealed and reenacted to read:

Sec. 23.30.244. Emergency and disaster relief forces as state employees.

(a) A resident of this state temporarily engaged as a civilian volunteer in an emergency or a disaster relief function in another state or country who suffers injury or death during the course and within the scope of providing emergency or disaster relief aid is considered an employee of this state for purposes of this chapter if, at the time of the injury or death, the volunteer

(1) is an active roster civilian volunteer member of a state-certified emergency force and is registered with the state division of emergency services in the Department of Military and Veterans' Affairs;

1 (2) is providing services under AS 26.23.136 during an emergency or
2 disaster; and

3 (3) is not otherwise covered for that injury or death by an employer's
4 workers' compensation insurance policy or self-insurance certificate.

5 (b) A resident of this state temporarily engaged as a civilian volunteer in a
6 disaster emergency relief function in this state who suffers injury or death during the
7 course and within the scope of providing disaster emergency relief aid is considered an
8 employee of the state for purposes of this chapter if, at the time of the injury or death,
9 the volunteer

10 (1) is an active roster civilian volunteer member of an emergency
11 service organization whose services were requested by the division of emergency
12 services in the Department of Military and Veterans' Affairs;

13 (2) is providing services requested by the Department of Military and
14 Veterans' Affairs during a disaster emergency declared under AS 26.20.040 or
15 AS 26.23.020;

16 (3) is not an employee of an agency of the United States, this state, or a
17 political subdivision of this state; and

18 (4) is not otherwise covered for that injury or death by an employer's
19 workers' compensation insurance policy or self-insurance certificate.

20 (c) The gross weekly earnings for a resident of this state temporarily engaged
21 as a civilian volunteer under this section are the minimum gross weekly earnings paid
22 to an employee employed by this state to perform equivalent work, or, if an employee
23 is not employed by this state to perform equivalent work, the state average weekly
24 wage, but the gross weekly earnings for calculating compensation may not be less than
25 the minimum wage computed on the basis of 40 hours of work a week.

26 * **Sec. 2.** AS 26.23.070(b) is amended to read:

27 (b) If the governor finds that a vulnerable area lies only partly within the state
28 and includes territory in a foreign jurisdiction, and that it would be desirable to
29 establish an international relationship, mutual aid, or an area organization for disaster,
30 the governor shall take steps to that end as desirable. If this action is taken with
31 jurisdictions that have enacted the **Emergency Management Assistance Compact**

1 [INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT] substantially as
 2 contained in AS 26.23.136 [AS 26.23.130], any resulting agreement may be
 3 considered a supplementary [SUPPLEMENTAL] agreement under Article VII
 4 [ARTICLE VI] of that compact.

5 * **Sec. 3.** AS 26.23 is amended by adding new sections to read:

6 **Sec. 26.23.135. Emergency Management Assistance Compact enacted and**
 7 **entered into.** The Emergency Management Assistance Compact is hereby enacted
 8 into law and entered into with all jurisdictions legally joining in it in a form
 9 substantially as contained in AS 26.23.136.

10 **Sec. 26.23.136. Compact terms.** The terms and provisions of the compact
 11 referred to in AS 26.23.135 are as follows:

12 EMERGENCY MANAGEMENT ASSISTANCE COMPACT

13 ARTICLE I

14 PURPOSES; DEFINITIONS

15 This compact is made and entered into by and between the participating
 16 member states that enact this compact, which are called party states. For the purposes
 17 of this agreement, "states" means the several states, the Commonwealth of Puerto
 18 Rico, the District of Columbia, and all United States territorial possessions.

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

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

31 ARTICLE II

GENERAL IMPLEMENTATION

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

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state is the underlying principle on which all articles of this compact are understood.

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

ARTICLE III

PARTY STATE RESPONSIBILITIES

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

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

(2) review party states' individual emergency plans and develop a plan that will determine the mechanism for the interstate management and provision of

1 assistance concerning any potential emergency;

2 (3) develop interstate procedures to fill any identified gaps and to
3 resolve any identified inconsistencies or overlaps in existing or developed plans;

4 (4) assist in warning communities adjacent to or crossing the state
5 boundaries;

6 (5) protect and assure uninterrupted delivery of services, medicines,
7 water, food, energy and fuel, search and rescue, and critical lifeline equipment,
8 services, and resources, both human and material;

9 (6) inventory and set procedures for the interstate loan and delivery of
10 human and material resources, together with procedures for reimbursement or
11 forgiveness; and

12 (7) provide, to the extent authorized by law, for temporary suspension
13 of any statutes or ordinances that restrict the implementation of the responsibilities
14 listed in (1) - (6) of this subsection.

15 (b) The authorized representative of a party state may request assistance of
16 another party state by contacting the authorized representative of that state. The
17 provisions of this agreement only apply to requests for assistance made by and to
18 authorized representatives. Requests may be verbal or in writing. If verbal, the
19 request shall be confirmed in writing within 30 days of the verbal request. Requests
20 shall provide the following information:

21 (1) a description of the emergency service function for which
22 assistance is needed, such as, but not limited to, fire services, law enforcement,
23 emergency medical, transportation, communications, public works and engineering,
24 building inspection, planning and information assistance, mass care, resource support,
25 health and medical services, and search and rescue;

26 (2) the amount and type of personnel, equipment, materials and
27 supplies needed, and a reasonable estimate of the length of time they will be needed;
28 and

29 (3) the specific place and time for staging of the assisting party's
30 response and a point of contact at that location.

31 (c) There shall be frequent consultation between state officials who have

1 assigned emergency management responsibilities and other appropriate representatives
2 of the party states with affected jurisdictions and the United States government, with
3 free exchange of information, plans, and resource records relating to emergency
4 capabilities.

5 ARTICLE IV
6 LIMITATIONS

7 Any party state requested to render mutual aid or conduct exercises and
8 training for mutual aid shall take such action as is necessary to provide and make
9 available the resources covered by this compact in accordance with the terms of the
10 compact; however, it is understood that the state rendering aid may withhold resources
11 to the extent necessary to provide reasonable protection for such state. Each party
12 state shall afford to the emergency forces of any party state, while operating within its
13 state limits under the terms and conditions of this compact, the same powers, except
14 that of arrest unless specifically authorized by the receiving state; duties; rights; and
15 privileges as are afforded forces of the state in which they are performing emergency
16 services. Emergency forces will continue under the command and control of their
17 regular leaders, but the organizational units will come under the operational control of
18 the emergency services authorities of the state receiving assistance. These conditions
19 may be activated, as needed, only subsequent to a declaration of a state of emergency
20 or disaster by the governor of the party state that is to receive assistance or
21 commencement of exercises or training for mutual aid and shall continue so long as
22 the exercises or training for mutual aid are in progress, the state of emergency or
23 disaster remains in effect, or loaned resources remain in the receiving state or states,
24 whichever is longest.

25 ARTICLE V
26 LICENSES AND PERMITS

27 Notwithstanding any contrary provision of law, whenever any person holds a
28 license, certificate, or other permit issued by any state party to the compact evidencing
29 the meeting of qualifications for professional, mechanical, or other skills, and when
30 such assistance is requested by the receiving party state, the person is deemed
31 licensed, certified, or permitted by the state requesting assistance to render aid

1 involving such a skill to meet a declared emergency or disaster, subject to the
2 limitations and conditions as the governor of the requesting state may prescribe by
3 proclamation or otherwise.

4 ARTICLE VI

5 LIABILITY

6 Officers or employees of a party state rendering aid in another state under this
7 compact are considered agents of the requesting state for tort liability and immunity
8 purposes; and a party state or its officers or employees rendering aid in another state in
9 accordance with this compact is not liable on account of any act or omission in good
10 faith on the part of such forces while so engaged or on account of the maintenance or
11 use of any equipment or supplies in connection with the rendering of that aid. Good
12 faith in this article does not include wilful misconduct, gross negligence, or
13 recklessness.

14 ARTICLE VII

15 SUPPLEMENTARY AGREEMENTS

16 Inasmuch as it is probable that the pattern and detail of the machinery for
17 mutual aid among two or more states may differ from that among the states that are
18 party to the compact, this instrument contains elements of a broad base common to all
19 states, and nothing contained in the compact precludes any state from entering into
20 supplementary agreements with another state or affects any other agreements already
21 in force between states. Supplementary agreements may comprehend, but are not
22 limited to, provisions for evacuation and reception of injured and other persons and
23 the exchange of medical, fire, police, public utility, reconnaissance, welfare,
24 transportation and communications personnel, and equipment and supplies.

25 ARTICLE VIII

26 COMPENSATION

27 Each party state shall provide for the payment of compensation and death
28 benefits to injured members of the emergency forces of that state and representatives
29 of deceased members of such forces in case those members sustain injuries or are
30 killed while rendering aid under this compact, in the same manner and on the same
31 terms as if the injury or death were sustained within their own state.

1 ARTICLE IX
2 REIMBURSEMENT

3 Any party state rendering aid in another state under this compact shall be
4 reimbursed by the party state receiving the aid for any loss or damage to or expense
5 incurred in the operation of any equipment and the provision of any service in
6 answering a request for aid and for the costs incurred in connection with such a
7 request; however, any aiding party state may assume in whole or in part the loss,
8 damage, expense, or other cost, or may loan equipment or donate services to the
9 receiving party state without charge or cost and, further, any two or more party states
10 may enter into supplementary agreements establishing a different allocation of costs
11 among those states. Article VIII expenses are not reimbursable under this provision.

12 ARTICLE X
13 EVACUATION

14 Plans for the orderly evacuation and interstate reception of portions of the
15 civilian population as the result of any emergency or disaster of sufficient proportions
16 to so warrant, shall be worked out and maintained between the party states and the
17 emergency management or services directors of the various jurisdictions where any
18 type of incident requiring evacuations might occur. The plans shall be put into effect
19 by request of the state from which evacuees come and shall include the manner of
20 transporting the evacuees, the number of evacuees to be received in different areas, the
21 manner in which food, clothing, housing, and medical care will be provided, the
22 registration of the evacuees, the providing of facilities for the notification of relatives
23 or friends, and the forwarding of the evacuees to other areas or the bringing in of
24 additional materials, supplies, and all other relevant factors. The plans shall provide
25 that the party state receiving evacuees and the party state from which the evacuees
26 come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in
27 receiving and caring for the evacuees, for expenditures for transportation, food,
28 clothing, medicines and medical care, and like items. Such expenditures shall be
29 reimbursed as agreed by the party state from which the evacuees come. After the
30 termination of the emergency or disaster, the party state from which the evacuees
31 come shall assume the responsibility for the ultimate support of repatriation of the

1 evacuees.

2 ARTICLE XI
3 IMPLEMENTATION

4 (a) This compact becomes operative immediately upon its enactment into law
5 by any two states; after that, this compact becomes effective as to any other state upon
6 its enactment by that state.

7 (b) Any party state may withdraw from this compact by enacting a statute
8 repealing the compact, but the withdrawal does not take effect until 30 days after the
9 governor of the withdrawing state has given notice in writing of the withdrawal to the
10 governors of all other party states. The action does not relieve the withdrawing state
11 from obligations assumed under the compact before the effective date of withdrawal.

12 (c) Duly authenticated copies of this compact and of any supplementary
13 agreements as may be entered into shall, at the time of their approval, be deposited
14 with each of the party states and with the Federal Emergency Management Agency
15 and other appropriate agencies of the United States government.

16 ARTICLE XII
17 VALIDITY

18 This Act shall be construed to effectuate the purposes stated in Article I of this
19 compact. If any provision of this compact is declared unconstitutional, or the
20 applicability of the compact to any person or circumstances is held invalid, the
21 constitutionality of the remainder of this compact and the applicability of the compact
22 to other persons and circumstances are not affected by the invalidity of any provision
23 of the compact.

24 ARTICLE XIII
25 ADDITIONAL PROVISIONS

26 Nothing in this compact authorizes or permits the use of military force by the
27 National Guard of a state at any place outside that state in any emergency for which
28 the President is authorized by law to call into federal service the militia, or for any
29 purpose for which the use of the Army or the Air Force would in the absence of
30 express statutory authorization be prohibited under 18 U.S.C. 1385.

31 * **Sec. 4.** AS 26.23.210(b) is amended to read:

1 (b) The provisions of this chapter[, OTHER THAN AS 26.23.130,] apply to
2 preparedness, response, and recovery in cases of natural and **human made**
3 [MANMADE] disasters other than disasters listed in (a) of this section.

4 * **Sec. 5.** AS 26.23.120 and 26.23.130 are repealed.

5 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).