

SENATE BILL NO. 235

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/16/02

Referred: State Affairs, Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

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

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

5 * **Section 1.** AS 23.30.244 is repealed and reenacted to read:

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

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

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

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

3 (3) the volunteer is not otherwise covered for that injury or death by an
4 employer's 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 (1) the volunteer is an active roster civilian volunteer member of an
10 emergency service organization whose services were requested by the division of
11 emergency services in the Department of Military and Veterans' Affairs;

12 (2) the volunteer is providing services during a disaster emergency
13 declared under AS 26.23.020;

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

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

18 (c) The gross weekly earnings for a volunteer under this section are the
19 minimum gross weekly earnings paid to an employee employed by this state to
20 perform equivalent work, or, if no employee is employed by this state to perform
21 equivalent work, the state average weekly wage, but in no case may the gross weekly
22 earnings for calculating compensation be less than the minimum wage computed on
23 the basis of 40 hours of work a week.

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

25 (b) If the governor finds that a vulnerable area lies only partly within the state
26 and includes territory in a foreign jurisdiction, and that it would be desirable to
27 establish an international relationship, mutual aid, or an area organization for disaster,
28 the governor shall take steps to that end as desirable. If this action is taken with
29 jurisdictions that have enacted the **Emergency Management Assistance Compact**
30 [INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT] substantially as
31 contained in **AS 26.23.136** [AS 26.23.130], any resulting agreement may be

1 considered a **supplementary** [SUPPLEMENTAL] agreement under **Article VII**
 2 [ARTICLE VI] of that compact.

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

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

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

10 EMERGENCY MANAGEMENT ASSISTANCE COMPACT

11 ARTICLE I

12 PURPOSES; DEFINITIONS

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

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

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

29 ARTICLE II

30 GENERAL IMPLEMENTATION

31 Each party state entering into this compact recognizes many emergencies

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

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

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

17 ARTICLE III

18 PARTY STATE RESPONSIBILITIES

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

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

28 (2) review party states' individual emergency plans and develop a plan
 29 that will determine the mechanism for the interstate management and provision of
 30 assistance concerning any potential emergency;

31 (3) develop interstate procedures to fill any identified gaps and to

1 resolve any identified inconsistencies or overlaps in existing or developed plans;

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

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

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

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

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

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

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

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

29 (c) There shall be frequent consultation between state officials who have
30 assigned emergency management responsibilities and other appropriate representatives
31 of the party states with affected jurisdictions and the United States government, with

1 free exchange of information, plans, and resource records relating to emergency
2 capabilities.

3 ARTICLE IV
4 LIMITATIONS

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

23 ARTICLE V
24 LICENSES AND PERMITS

25 Notwithstanding any contrary provision of law, whenever any person holds a
26 license, certificate, or other permit issued by any state party to the compact evidencing
27 the meeting of qualifications for professional, mechanical, or other skills, and when
28 such assistance is requested by the receiving party state, the person is deemed
29 licensed, certified, or permitted by the state requesting assistance to render aid
30 involving such a skill to meet a declared emergency or disaster, subject to the
31 limitations and conditions as the governor of the requesting state may prescribe by

1 proclamation or otherwise.

2 ARTICLE VI

3 LIABILITY

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

12 ARTICLE VII

13 SUPPLEMENTARY AGREEMENTS

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

23 ARTICLE VIII

24 COMPENSATION

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

30 ARTICLE IX

31 REIMBURSEMENT

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

10 ARTICLE X

11 EVACUATION

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

31 ARTICLE XI

1 IMPLEMENTATION

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

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

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

14 ARTICLE XII

15 VALIDITY

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

22 ARTICLE XIII

23 ADDITIONAL PROVISIONS

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

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

30 (b) The provisions of this chapter, other than AS 26.23.136 [AS 26.23.130],
31 apply to preparedness, response, and recovery in cases of natural and manmade

1 disasters other than disasters listed in (a) of this section.

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

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