

Legislative Analysis



INTERSTATE MUTUAL EMERGENCY AID ACT

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House Bill 4838 (Substitute H-1)

Sponsor: Rep. Sharon Tyler

Committee: Local, Intergovernmental, and Regional Affairs

First Analysis (10-6-11)

BRIEF SUMMARY: The bill would create a new act, to be known as the Interstate Mutual Emergency Aid Act, to allow interstate compacts that provide mutual aid during events posing risk to life, health, property, or the environment, but *not* requiring a state or local declaration of emergency or disaster.

FISCAL IMPACT: The bill has an indeterminate fiscal impact.

THE APPARENT PROBLEM:

In Michigan's border communities, police, fire, and emergency services personnel often cross state lines in order to respond to emergencies that threaten the public health and safety of area citizens. Most of these voluntary mutual aid arrangements are informal--the result of longstanding cooperation protocols followed by public safety professionals when their fellow emergency responders need a hand. Following those informal protocols, they "pitch in," ignoring the jurisdictional issues raised by the presence of the state border.

Under Public Act 310 of 2000, "law enforcement agencies"--defined to mean *a police or sheriff's department that has the authority to enforce the general criminal laws of this state or a similar governmental organization of a physically adjacent state*--have the authority to formalize their interstate mutual aid agreements as contracts. Under the law, those agreements are then filed with the Michigan Commission on Law Enforcement Standards, a branch of the Michigan Department of State Police. For more information see <http://www.michigan.gov/mcoles>

Currently firefighters and other emergency services personnel are prohibited from entering into formal mutual aid contracts that span the state's border, although some have done so, determined to protect the people they are sworn to serve.

For example, reciprocal firefighting relationships--all informal--exist in Niles, Michigan, and South Bend, Indiana. Niles is a town of 11,600 people located in both Berrien and Cass Counties, in Michigan's southwest corner, just north of the Michigan-Indiana border. During committee testimony, the fire chief of the Niles Fire Department testified that his community's firefighters and emergency personnel assist South Bend, Indiana, and surrounding Clay Township, Indiana, whenever they are needed. And, the arrangement works both ways: South Bend gives Niles firefighting assistance, if they can. Likewise, in the event of traffic accidents, the public safety departments in both

states dispatch the nearest emergency medical service (EMS) personnel along the shared 20-mile border, and they ignore the state border when they transport their injured passengers to the nearest (or most appropriate) hospitals.

Legislation has been introduced that would allow "emergency responders" to enter into interstate mutual aid compacts, giving them the authority to share services and equipment with communities in adjacent states.

THE CONTENT OF THE BILL:

House Bill 4838 (H-1) would create a new act to be known as the Interstate Mutual Emergency Aid Act. The new act would specifically allow interstate compacts and agreements for the purpose of providing mutual aid during certain kinds of emergencies (generally, those events posing risk to life, health, property, or the environment, but *not* requiring a state or local declaration of emergency or disaster). A more detailed description of the bill follows.

Mutual aid agreements with governmental units in other states. The bill specifies that in order to more adequately address emergencies that extend or exceed a jurisdiction's emergency response capabilities, the state or any of its departments, or political subdivisions may enter into a mutual aid agreement with one or more units of government from another state. The local units this applies to include, but are not limited to, a county, city, village, township, special district, or other unit of local government, or any combination of these jurisdictions. (This applies to emergencies that do not rise to the level of a state or local declaration of disaster or emergency and to the initial stages of an event which may later become a declared disaster or emergency.)

Under the bill, the mutual aid agreement that is entered into with another state may provide for the coordination of communications, and training, as well as for response to and standby for, planned events and also for emergency responses.

Private companies. A private company and its employees, under contract with a state agency or political subdivision in the state, would not be prohibited from participating in mutual aid agreements, but private mutual aid agreements would be limited to the *provision of* (a) emergency medical services personnel; (b) physicians; (c) nurses; (d) mental health, veterinary, or other public health practitioners; (e) emergency management personnel; (f) or public works personnel. Further, these private mutual aid agreements would be possible only if the state agency or political subdivision approved the participation and their contract permitted it.

Out-of-state emergency responders. When engaged in training, stand-by, and emergency response, in accord with their respective mutual aid agreements, all emergency responders from outside Michigan would be permitted to provide services within the state.

Reciprocity. Under the bill, an emergency responder from a unit of government outside Michigan who held a license, certificate, or other permit, would be considered to be licensed, certified, and permitted to render mutual aid in Michigan (assuming the emergency responder was acting within the scope of his or her license and its Michigan equivalent license).

Liability. The bill specifies that any function performed under this act would be considered to be for public and governmental purposes, and that all immunities from liability that are enjoyed by the state or the political subdivisions of Michigan and their officers, agents, and employees, would also extend to the emergency responders from another state.

Emergency responders from outside Michigan would remain employees of their respective jurisdictions, and the mutual aid agreement entered into would create an employment relationship between the jurisdiction requesting aid and the employees and agents of the jurisdiction rendering aid. Further, all pension, relief, disability, death benefits, worker's compensation, and other benefits enjoyed by emergency responders who rendered emergency mutual aid would extend to the service they performed outside their respective jurisdictions as if they had been rendered in their own jurisdiction.

Finally, House Bill 4838 specifies that this act would not limit, modify, or abridge the emergency management compact entered into under Public Act 247 of 2001 (MCL 3.991 to 3.994), the Emergency Management Act, Public Act 390 of 1976 (MCL 30.401 to 30.421), or Public Act 310 of 2000 (MCL 3.731 to 3.734), which allows mutual aid agreements among law enforcement personnel.

Definitions. The bill defines two terms: "emergency responder," and "mutual aid emergency."

The term "*emergency responder*" is defined to mean an individual who is required to possess a license, certificate, or permit, or other official recognition for expertise in a particular field or area of knowledge and whose assistance is utilized or is desirable during an emergency. Emergency responder includes, but is not limited to, emergency medical services personnel; physicians; nurses; mental health, veterinary or other public health practitioners; emergency management personnel; public works personnel; and firefighters, including firefighters trained in the areas of hazardous materials, specialized rescue, extrication, water rescue, or other specialized area. Emergency responder does not include law enforcement officers or other law enforcement personnel.

The term "*mutual aid emergency*" or "*emergency*" is defined to mean an occurrence or condition resulting in a situation that poses an immediate risk to health, life, property, or the environment, where the governing body having jurisdiction over the situation decides that the situation exceeds its ability to render appropriate aid and that it is in the public's best interest to request mutual aid from a governmental jurisdiction or private entity in another state with which the governing body has a written mutual aid agreement. "*Mutual aid emergency*" or "*emergency*" does not include a situation that initially rises to

the level of disaster or emergency requiring a local or state of declaration of emergency or disaster, unless that declaration occurs after the initial request for mutual aid.

ARGUMENTS:

For:

This legislation will enable the emergency responders in Michigan communities to enter into formal mutual aid agreements with their counterparts in adjacent states. Mutual aid contracts are already authorized in statute for police and sheriffs' departments. This bill would extend that authorization to firefighters, and other emergency responders such as emergency medical technicians (EMTS).

A mutual aid agreement is especially beneficial to the citizens at the state's borders. There, written mutual aid agreements will allow fire departments and emergency medical service providers to formalize reciprocity arrangements already in place. That way, emergency responders can share equipment cost-effectively, as well as provide the fastest possible response to emergencies that threaten the public's health and safety. Further, the bill promotes regional cooperation, and protects the emergency responders by extending to them governmental immunity in the event of mishaps.

For:

The substitute version of the bill is much improved following discussions with local government officials. As originally introduced, the definition of "emergency responder" was too broad, including law enforcement officials--both public and private. The H-1 substitute of House Bill 4838 does not apply to law enforcement personnel, since police and sheriffs' departments already have the authority to enter into mutual aid agreements under Public Act 310 of 2000. And, the H-1 substitute clarifies the conditions under which private emergency responders can participate in interstate mutual aid agreements.

POSITIONS:

The Michigan Townships Association supports the H-1 substitute version of the bill. (10-6-11)

The Department of Michigan State Police supports the bill. (10-6-11)

The Michigan Association of Fire Chiefs supports the bill. (10-6-11)

The Berrien Springs Police Department supports the bill. (9-15-11)

Niles Charter Township supports the bill. (9-15-11)

The Niles Charter Township Fire Department supports the bill. (9-15-11)

The Southwest Michigan Community Ambulance Service supports the bill. (9-15-11)

The Michigan Association of Ambulance Service supports the bill. (9-15-11)

The Michigan Municipal League supports the bill. (9-15-11)

The Michigan Professional Fire Fighters Union is neutral on the bill. (10-6-11)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.