

Legislative Analysis



STATE & PROVINCE EMERGENCY MANAGEMENT ASSISTANCE MEMORANDUM OF AGREEMENT

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House Bill 5801

Sponsor: Rep. Ray A. Franz

Committee: Local, Intergovernmental, and Regional Affairs

Complete to 9-19-12

A SUMMARY OF HOUSE BILL 5801 AS INTRODUCED 8-15-12

House Bill 5801 would create a new act to enable Michigan to enter into a state and province emergency management assistance agreement. The U. S. and Canadian jurisdictions participating in such an agreement would do so to provide mutual assistance in managing an emergency or disaster when an affected jurisdiction asked for assistance arising from a natural disaster, a technological hazard, a man-made disaster, or the civil emergency aspects of a resource shortage.

Under the bill, the participating jurisdictions would recognize the importance of regionally based comprehensive and coordinated civil emergency preparedness, response, and recovery measures for those emergencies, disasters, or hostilities affecting or potentially affecting one or more of the participating jurisdictions in the United States or in Canada.

The bill proposes 12 articles constituting the State and Province Emergency Management Assistance Memorandum of Agreement. A description of each article follows.

Article I. The first article specifies that the State and Province Emergency Management Assistance Memorandum of Agreement is made and entered into by and among the jurisdictions that enact or adopt this agreement. For the purpose of the agreement, the term "participating jurisdictions" initially includes any or all of the states of Illinois, Indiana, Ohio, Michigan, Minnesota, Montana, North Dakota, Pennsylvania, New York, and Wisconsin, and the Canadian Provinces of Alberta, Manitoba, Ontario, and Saskatchewan. Other states (including the Commonwealth of Puerto Rico, the District of Columbia, and all United States Territorial possessions), as well as the 10 provinces within Canada could participate.

The agreement provides for the process of planning (before the emergencies, themselves) among the agencies responsible for mutual cooperation, to include civil emergency preparedness exercises, testing, or other simulated training activities that would affect performance when giving and receiving aid.

Article II. The second article notes that intergovernmental cooperation is sometimes essential, and that some emergencies may require the use of immediate access and

present procedures to apply 'outside resources,' in order to make a prompt and effective response to an emergency.

Under the bill, the *legally designated official who is assigned responsibility for emergency management* would be responsible for formulating the appropriate inter-jurisdictional mutual aid plans and procedures necessary to implement the agreement, as well as for recommendations to amend any statutes, regulations, or ordinances required for that purpose.

Article III. The third article concerns preparedness. The bill specifies participating jurisdictions could consider the following preparedness activities:

- Share hazard analyses that are available, and determine those potential disasters and emergencies that the participating jurisdictions might jointly experience.
- Share existing emergency operations plans, procedures, and protocols.
- Share policies and procedures for resource mobilization, tracking, demobilization, and reimbursement.
- Consider joint planning, training, and exercises.
- Assist with alert, notification, and warning in those communities adjacent to or crossing participating jurisdiction boundaries.
- Consider procedures to facilitate the movement of evacuees, refugees, civil emergency personnel, equipment, or other resources into or across boundaries, or to a designated staging area when it is agreed that such moving will facilitate civil emergency operations.
- Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that impede the implementation of the responsibilities described above.

Under the bill, the authorized representatives of a participating jurisdiction could request assistance by contacting another jurisdiction's authorized representative. Requests could be verbal or in writing, and if verbal, then confirmed in writing within 15 days. Requests would have to provide the following information:

- A description of the emergency service functions for which assistance is needed, and of the mission, including, but not limited to fire services, emergency medical, transportation, communications, public works, engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.
- The amount and type of personnel, equipment, materials, and supplies needed, and a reasonable estimate of the length of time they will be needed.
- The specific place and time for staging the assisting party's response, as well as a point of contact at that location.

Article III also specifies that there would be periodic consultation among the authorized representatives who have assigned emergency management responsibilities.

Article IV. The bill specifies that any participating jurisdiction that agrees to render mutual aid or to conduct exercises and training must respond as soon as possible. A participating jurisdiction may also withhold or recall resources to provide reasonable protection for itself.

Under the bill, to the extent authorized by law, each participating jurisdiction must afford to the personnel of the emergency contingent of another jurisdiction the same treatment it affords its own. However, staff making up the emergency contingent would continue under the command and control of their regular leaders, while the organizational units would come under the operational control of the emergency services authority receiving assistance. These conditions would be activated and de-activated by the jurisdiction receiving the services.

Article V. The fifth article requires that the receiving jurisdiction consider visitors' professional licenses, certificates, or other permits (to demonstrate qualifications for professional, mechanical, or other skills), be considered valid, to the extent allowed by law, and be subject to the same limitations and conditions as those in the receiving jurisdiction.

Article VI. The sixth article specifies that any person or entity rendering aid would be considered an agent of the requesting jurisdiction for tort liability and immunity purposes. Further, any person or entity rendering aid in another jurisdiction would not be liable, on account of any act or omission of good faith, while engaged, or on account of the maintenance or use of any equipment or supplies. The bill specifies that "good faith" would *not* include willful misconduct, gross negligence, or recklessness.

Article VII. The seventh article specifies that nothing in the agreement would preclude any participating jurisdiction from entering into supplementary agreements with another jurisdiction. Supplementary agreements could include, but would not be limited to, provisions for evacuation and reception of injured and other people, as well as the exchange of medical, fire, public utility, reconnaissance, welfare, transportation, and communications personnel, equipment, and supplies.

Article VIII. The eighth article requires that each participating jurisdiction must provide, in accord with its own laws, for the payment of workers' compensation and death benefits to injured members of the emergency contingent of that participating jurisdiction, and to the representatives of deceased members of the deployed contingent, if the members sustain injuries or are killed while rendering aid, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

Article IX. The ninth article specifies that any participating jurisdiction rendering aid must, if requested, be reimbursed by the receiving jurisdiction, for any loss or damage to or expense incurred in the operation of any equipment, and the provision of any service. Under the bill, an aiding jurisdiction could assume in whole or in part any loss, damage, expense, or other cost, or could loan equipment or donate services. Participating

jurisdictions could enter into supplementary agreements to establish a different allocation of costs; however, the benefits under Article VIII would not be reimbursable.

Article X. The tenth article specifies that the agreement would be effective upon its execution or adoption by any state and province, subject to approval or authorization by the United States Congress, and the enactment of any state or provincial legislation that could be required for the effectiveness of the arrangement.

Any participating jurisdiction could withdraw from the agreement, but the withdrawal would not take effect until 30 days after the governor or premier had given notice, in writing, of that withdrawal to the governors and premiers of all other participating jurisdictions.

This article also specifies that duly authenticated copies of the agreement in the French and English languages and of any supplementary agreements (at the time of their approval) be deposited with each of the participating jurisdictions.

Article XI. The eleventh article concerns severability. It specifies that if any provision of this agreement was declared unconstitutional or invalid, the validity of the remaining provisions would not be affected.

Article XII. The twelfth article specifies that the validity of the provisions consented to in the agreement would not be affected by any insubstantial difference in form or language as may be adopted by the various states and provinces.

FISCAL IMPACT:

House Bill 5801 would have an indeterminate fiscal impact on state and local governments. Any fiscal impact would depend on the cost of emergency management services rendered to the state and local governments in an emergency situation as compared to the baseline without the assistance of those services. In addition, the state may agree to provide services to another jurisdiction and any fiscal impact would be dependent upon the services rendered and the reimbursement associated with the services rendered

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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.