

**SUBSTITUTE FOR
HOUSE BILL NO. 4729**

A bill to create an intrastate emergency management assistance agreement; to provide for the coordination of assistance during times of emergencies; and to specify the duties of certain state and local officials and agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "intrastate emergency management assistance agreement".

3 Sec. 2. As used in this act:

4 (a) "Authorized representative" means the chief executive of
5 a participating government, or his or her designee, who has written
6 authorization to request, offer, or provide assistance under the
7 emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

8 (b) "Department" means the department of the state police.

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1 (c) "Director" means the director of the department or his or
2 her designee.

3 (d) "Disaster" means an occurrence or threat of widespread or
4 severe damage, injury, or loss of life or property resulting from a
5 natural or human-made cause, including, but not limited to, fire,
6 flood, snowstorm, ice storm, tornado, windstorm, wave action, oil
7 spill, water contamination, utility failure, hazardous peacetime
8 radiological incident, major transportation accident, hazardous
9 materials incident, epidemic, air contamination, [] drought,
10 infestation, explosion, or hostile military action or paramilitary
11 action, or similar occurrences resulting from terrorist activities,
12 riots, or civil disorders.

13 (e) "Emergency" means any occurrence that requires the
14 assistance of emergency responders to save lives, protect property
15 and the public health and safety, or lessen or avert the threat of
16 a disaster.

17 (f) "Emergency management coordinator" means that term as
18 defined in section 2 of the emergency management act, 1976 PA 390,
19 MCL 30.402.

20 (g) "Emergency management homeland security division" means
21 the department's emergency management homeland security division.

22 (h) "Emergency responder" means an individual with special
23 skills, qualifications, training, knowledge, or experience in the
24 public or private sector, including all employees and volunteers of
25 any participating government, that would be beneficial to a
26 participating government in response to a local state of emergency
27 declared under the emergency management act, 1976 PA 390, MCL

1 30.401 to 30.421, serious threats to public safety, or authorized
2 drill or exercises; and who is requested or is authorized to
3 respond to a requesting participating government.

4 (i) "Incident command system" means a standardized on-scene
5 emergency management construct specifically designed to provide for
6 the adoption of an integrated organizational structure that
7 reflects the complexity and demands of single or multiple incidents
8 without being hindered by jurisdictional boundaries. The incident
9 command system is the combination of facilities, equipment,
10 personnel, procedures, and communications operating within a common
11 organizational structure that is designed to aid in the management
12 of resources during incidents.

13 (j) "Participating government" means each political
14 subdivision of this state whose legislative body has adopted a
15 resolution to be included under this act.

16 (k) "Period of assistance" means the period of time beginning
17 with the departure of any person or equipment of the responding
18 participating government from any point for the purpose of
19 traveling to provide assistance to the requesting participating
20 government, and ending upon the return of all the responding
21 participating government's personnel and equipment after providing
22 the assistance requested, to the person's residence or regular
23 place of work, whichever occurs first, or the equipment's place of
24 storage. Period of assistance does not include any portion of the
25 trip during which the personnel of the responding participating
26 government are engaged in activities not reasonably necessary for
27 their safe travel to or from the jurisdiction of the requesting

1 participating government.

2 (l) "Political subdivision" means that term as defined in
3 section 2 of the emergency management act, 1976 PA 390, MCL 30.402.

4 (m) "Requesting participating government" means any
5 participating government requesting and receiving emergency
6 assistance under this act.

7 (n) "Responding participating government" means any
8 participating government responding to a request for assistance
9 under this act.

10 (o) "Serious threats to public health and safety" means a
11 threat or incident of sufficient magnitude that the necessary
12 public safety response threatens to overwhelm local resources and
13 requires mutual aid or other assistance, but for which no local,
14 state or federal declaration of emergency or disaster is
15 forthcoming or likely to result.

16 Sec. 3. An intrastate emergency management assistance
17 agreement is created between the participating governments of this
18 state. The purpose of the agreement is to create a system of
19 intrastate mutual aid between participating governments. Each
20 participating government recognizes that emergencies transcend
21 political jurisdictional boundaries and that intergovernmental
22 coordination is essential for the protection of lives and property
23 and for best use of available assets both public and private. The
24 agreement provides for mutual assistance among the participating
25 governments in the prevention of, mitigation, response to, and
26 recovery from any emergency or disaster. This act does not preclude
27 participating governments from entering into supplementary mutual

1 aid agreements with another political subdivision and does not
2 affect or in any way supersede any existing mutual aid agreement.

3 Sec. 4. A participating government may decline further
4 participation in the agreement created under this act by adopting a
5 resolution by its legislative body declining to participate. A
6 political subdivision is considered to have declined participation
7 when the resolution is filed with the director of the department.
8 If the department receives a resolution under this section
9 declining participation, the department shall promptly notify the
10 appropriate emergency management coordinator of that fact.

11 Sec. 5. A participating government may request the assistance
12 of other participating governments in preventing, mitigating,
13 responding to, or recovering from disasters that result in locally-
14 declared emergencies, serious threats to public health and safety,
15 or in concert with authorized drills or exercises as provided in
16 this act. Requests for assistance shall be made through the
17 authorized representative of a participating government or his or
18 her designee in a manner that is consistent with the emergency
19 management act, 1976 PA 390, MCL 30.401 to 30.421.

20 Sec. 6. A participating government's obligation to provide
21 assistance under this act is subject to the following requirements:

22 (a) A requesting participating government must have exhausted
23 all of its local resources, anticipate a serious threat to public
24 health and safety, or be a participant in authorized drills and
25 exercises.

26 (b) A responding participating government may withhold
27 resources to the extent necessary to provide reasonable protection

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1 and services for its own jurisdiction.

2 (c) A responding participating government may withdraw its
3 resources at any time, provided notice is given to the requesting
4 participating government before withdrawal.

5 (d) Emergency response personnel of a responding
6 participating government shall continue under the command and
7 control of the responding jurisdiction to include medical
8 protocols, standard operating procedures, and other protocols, but
9 shall be under the operational control of the appropriate officials
10 within the incident management system of the requesting
11 participating government.

12 (e) Assets and equipment of a responding participating
13 government shall continue to be under the command and control of
14 the responding participating government but shall be under the
15 operational control of the appropriate officials within the
16 incident command system of the requesting participating government.

17 Sec. 7. (1) A requesting participating government shall
18 reimburse the responding participating government for the entire
19 period of assistance[, unless that reimbursement is waived by the
20 responding participating government]. A participating government
providing

21 assistance may donate assets of any kind to a requesting
22 participating government. The rate for reimbursement under this
subsection shall be as follows:

23 (a) If the requesting participating government and the
24 responding participating government have agreed upon a rate, at
25 that rate.

26 (b) If the requesting participating government and the
27 responding participating government have not agreed upon a rate, at

1 the rate established under the fee schedule of the federal
2 emergency management agency (FEMA) that is in place at the time the
3 assistance is provided, or the actual cost of the assistance
4 provided, whichever is less.

5 (2) If a dispute arises between parties to the system
6 regarding reimbursement under subsection (1), the involved parties
7 shall make every effort to resolve the dispute within 30 days after
8 being provided with written notice of the dispute by the party
9 asserting noncompliance. If the dispute is not resolved within 90
10 days after the notice is received, either party may request the
11 dispute be resolved through arbitration. Any arbitration under this
12 subsection shall be conducted under the commercial arbitration
13 rules of the American arbitration association.

14 (3) Nothing in this act precludes the chief executive
15 official of a participating government from requesting, through the
16 emergency management homeland security division, state or federal
17 assistance, or the issuance of a gubernatorial or presidential
18 declaration of emergency or disaster, under the emergency
19 management act, 1976 PA 390, MCL 30.401 to 30.421, and the federal
20 Robert T. Stafford disaster relief and emergency assistance act,
21 Public Law 100-707.

22 Sec. 8. Personnel of a participating government who sustain
23 injury or death in the course of, and arising out of, their
24 employment are entitled to all applicable benefits normally
25 available to personnel while performing their duties for their
26 employer. Emergency response personnel shall receive any additional
27 state and federal benefits that may be available to them for line

1 of duty deaths.

2 Sec. 9. Each participating government is responsible for its
3 own acts and the acts of its employees, agents, volunteers, and
4 subcontractors.

5 Sec. 10. In the event of a conflict between the requirements
6 of this act and the requirements of the emergency management act,
7 1976 PA 390, MCL 30.401 to 30.421, the requirements of the
8 emergency management act, 1976 PA 390, MCL 30.401 to 30.421, shall
9 prevail.