ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2585

By: Duncan, DePue, Walker, Dorman, Pruett and Harrison of the House

and

Wyrick of the Senate

An Act relating to the Oklahoma Emergency Management Act of 2003; amending 63 O.S. 2001, Section 683.2, as amended by Section 4, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2005, Section 683.2), * * * * (63 O.S. Supp. 2005, Section 683.14), which relates to exemption from civil liability; protecting owners of facilities used for certain purposes; * * * * allowing jurisdictions not to participate; providing for supplementary agreements among certain jurisdictions; * * * * providing for command and control; providing for treatment of professional licenses; defining agents for certain purposes; providing certain immunity; providing for supplementary agreements; * * * * Sections 688.1, 688.2, 688.3, 688.4 and 688.5, which relate to the Civil Defense Shelter Incentive Act; providing for codification; and declaring an emergency.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"[Oklahoma Emergency Management Act of 2003 -

Oklahoma Intrastate Mutual Aid Compact -

codification -

emergency]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2001, Section 683.2, as amended by Section 4, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2005, Section 683.2), is amended to read as follows:

Section 683.2 A. Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from natural and man-made causes, in order to ensure that preparations of this state will adequately deal with

such disasters and emergencies, to generally provide for the common defense and to protect the public peace, health, and safety, to preserve the lives and property of the people of this state, and to carry out the objectives of state and national survival and recovery in the event of a disaster or emergency, it is hereby found and declared to be necessary to:

1. Create the Oklahoma Department of Emergency Management (OEM);

2. Authorize the creation of local organizations for emergency management in the counties and incorporated municipalities of this state;

3. Provide for the formulation and execution of an emergency operations plan for the state;

4. Confer upon the Governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided by the Oklahoma Emergency Management Act of 2003;

5. Provide for the rendering of mutual aid among the political subdivisions of this state and with other states to cooperate with the federal government with respect to carrying out emergency management functions and hazard mitigation; and

6. Provide sufficient organization to meet, prevent or reduce emergencies in the general interest and welfare of the public and this state.

B. It is further declared to be the purpose of the Oklahoma Emergency Management Act of 2003 and the policy of this state that all emergency management and hazard mitigation functions of this state be coordinated to the maximum extent with the comparable functions of the federal government, including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective

preparation and use may be made of available workforce, resources and facilities for dealing with disaster and hazard mitigation.

C. It is also directed that each state agency, board, commission, department or other state entity having responsibilities either indicated in the state Emergency Operations Plan or by the nature of the service it provides to the citizens of Oklahoma shall have written plans and procedures in place to protect individual employees, administrators and visitors from natural and man-made disasters and emergencies occurring at the work place. Plans and procedures shall be in concurrence with the Oklahoma Department of Emergency Management Guidebook titled "Emergency Standard Operating Procedures" for state departments, agencies, offices and employees. Each state agency, board, commission, department or other state entity shall provide a calendar year annual report on the status of their emergency management program to ~~the Department of Emergency Management~~ OEM. ~~The Department of Emergency Management~~ OEM shall compile and integrate all reports into a report to the Governor and Legislature on the status of state emergency preparedness.

D. Each state agency, board, commission, department or other state entity shall have written plans and procedures in place to support the responsibilities stated in the state Emergency Operations Plan.

E. The National Incident Management System (NIMS) shall be the standard for incident management in the State of Oklahoma. All on-scene management of disasters and emergencies shall be conducted using the Incident Command System (ICS).

SECTION 2. AMENDATORY 63 O.S. 2001, Section 683.14, as amended by Section 13, Chapter 329, O.S.L. 2003 (63 O.S. Supp. 2005, Section 683.14), is amended to read as follows:

Section 683.14 A. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege or otherwise permits the designation or use of

the whole or any part or parts of such real estate or premises for the purpose of sheltering persons, or providing a mass immunization and prophylaxis site or Strategic National Stockpile storage site during an actual or impending emergency or exercise shall, together with any successors in interest, if any, not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises for loss of, or damage to, the property of such person; provided, that the injury or death was caused by or incidental to the actual use of such premises for such real, actual or impending emergency or exercise, and further provided that nothing herein contained shall grant immunity from gross, willful or wanton acts of negligence.

B. Neither the State of Oklahoma nor any political subdivision thereof nor any officer or employee of the State of Oklahoma or of any political subdivision thereof nor volunteer whose services have been accepted and utilized by an officer or employee of the State of Oklahoma or of any political subdivision thereof for carrying out the functions of this act shall be civilly liable for any loss or injury resulting to any person's company, corporation or other legal entity as a result of any decision, determination, order or action of such employee in the performance of ~~his~~ assigned duties and responsibilities under this act during a stated emergency unless such loss or injury was caused by the gross negligence, or willfully and unnecessarily or by the wanton act of such state officer or employee or volunteer. Nothing in this act shall be construed to waive the sovereignty or immunity of the State of Oklahoma, or any political subdivision thereof, from being sued.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

Sections 3 through 11 of this act shall be known and may be cited as the “Oklahoma Intrastate Mutual Aid Compact”.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The purpose of the Oklahoma Intrastate Mutual Aid Compact is to create a system of intrastate mutual aid between participating jurisdictions in the state.

B. As used in the Oklahoma Intrastate Mutual Aid Compact:

1. "Jurisdiction" means any county, city, town or municipal corporation of the State of Oklahoma represented by an elected governing body.

Sovereign Tribal Nations in the State of Oklahoma shall also be considered jurisdictions under the Oklahoma Intrastate Mutual Aid Compact and participating unless electing not to participate or later withdrawing from the system;

2. "Emergency" means any occasion or instance for which assistance is needed to supplement local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe; and

3. "Emergency responder" means anyone with special skills, qualifications, training, knowledge, and experience in the public or private sectors that would be beneficial to a participating jurisdiction in response to a local emergency as defined in applicable law or ordinance or authorized drill or exercise.

C. Each participant of the system shall recognize that emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential for the protection of lives and property and for best use of available assets both public and private. The system shall provide for mutual assistance among the participating jurisdictions in the prevention of, response to, and recovery from, any disaster that results in a formal state of emergency in a participating jurisdiction subject to the criterion for declaration of that participating jurisdiction. The system

shall provide for mutual cooperation among the participating jurisdictions in conducting disaster-related exercises, testing, or other training activities outside actual declared emergency periods. This legislation provides no immunity, rights, or privileges for any individual responding to a state of emergency that is not requested and/or authorized to respond by a participating jurisdiction. Participating jurisdictions will be ensured eligibility, to the fullest extent possible, for state and federal disaster funding.

D. All jurisdictions within the state, upon enactment of this legislation, are automatically a part of the statewide mutual aid system. A jurisdiction within the state may elect not to participate or to later withdraw from the system upon enacting an appropriate resolution by its governing body declaring that it elects not to participate in the statewide mutual aid system and providing a copy of the resolution to the Oklahoma Department of Emergency Management. This legislation does not preclude participating jurisdictions from entering into supplementary agreements with another jurisdiction and does not affect any other agreement to which a jurisdiction may currently be a party or decide to be a party to.

E. Many disasters begin as emergencies where local jurisdictions require fire service and/or law enforcement assistance. These services would normally be requested and provided at the department level as normal day-to-day operations with no reimbursement. If an incident response expands beyond a normal day-to-day emergency into a disaster situation, reimbursement for mutual aid services may be necessary and will be in accordance with the Federal Emergency Management Agency reimbursement policy.

F. In support of the Emergency Management Compact, Section 684.1 et seq. of Title 63 of the Oklahoma Statutes, the Governor or the representative of the Governor may request mutual aid assistance from local jurisdictions for other states or their jurisdictions.

In such situations, the assisting local jurisdiction shall be considered an agent of the state.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

Each jurisdiction recognizes that there will be emergencies which require immediate actions and implementation of procedures to apply outside resources to make prompt and effective response to such an emergency. This is because few, if any, individual jurisdictions have all the resources they need in all types of emergencies and the capability of delivering resources to the area where emergencies occur.

The prompt, full and effective utilization of resources of the participating jurisdictions, including any resources on hand or available from 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 jurisdiction, shall be the underlying principle on which all articles of this Compact shall be understood.

On behalf of the chief elected officer of each jurisdiction participating in the Compact, the legally designated jurisdiction official who is assigned responsibility for emergency management will be responsible for the formulation of the appropriate aid plans and procedures necessary to implement the Compact.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.4 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. It shall be the responsibility of each jurisdiction to formulate procedural plans and programs for interjurisdictional cooperation in the performance of the responsibilities listed in this section. In formulating such plans, and in carrying them out, the jurisdictions, insofar as practical, shall:

1. Review individual jurisdictional hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the jurisdictions might jointly suffer, whether due to natural or man-made disasters or emergencies;

2. Review individual emergency plans of the jurisdictions and develop a plan that will determine the mechanism for the interjurisdictional management and provision of assistance concerning any potential emergency;

3. Develop interjurisdictional procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

4. Assist in warning communities adjacent to or crossing the jurisdictional boundaries;

5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, critical lifeline equipment, and resources, both human and material;

6. Inventory and set procedures for the interjurisdictional loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

All jurisdictions should use and conform to the current national standard for on-scene management and command systems.

B. The authorized representative of a jurisdiction may request assistance of another jurisdiction by contacting the authorized representative of that jurisdiction. The provisions of the Oklahoma Intrastate Mutual Aid Compact shall apply only to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:

1. A description of the emergency service function for which assistance is needed including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

2. The amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they will be needed; and

3. The specific place and time for staging of the response of the assisting party and a point of contact at that location.

C. There shall be frequent consultation between jurisdictional officials who have assigned emergency management responsibilities and other appropriate representatives of the jurisdictions with affected jurisdictions, with free exchange of information, plans, and resource records relating to emergency capabilities.

D. Jurisdictions shall not be obligated under the Compact to send the requested assistance, and assistance may be withdrawn at any time in the sole and absolute discretion of the jurisdiction.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.5 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any jurisdiction requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by the Oklahoma Intrastate Mutual Aid Compact in accordance with the terms hereof; provided that it is understood that the jurisdiction rendering aid may withhold resources to the extent necessary to provide reasonable protection for its own jurisdiction.

Each jurisdiction shall afford the emergency forces of any jurisdiction, while operating within its jurisdictional limits under the terms and conditions of the Compact, the same powers, duties,

rights, and privileges as are afforded forces of the jurisdiction in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under operational control of the emergency services authorities of the jurisdiction receiving assistance and must report to the incident check-in location for assignment.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.6 of Title 63, unless there is created a duplication in numbering, reads as follows:

Whenever any person holds a license, certificate, or other permit issued by any jurisdictional party evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving jurisdiction, such person shall be deemed licensed, certified, or permitted by the jurisdiction requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the requesting jurisdiction may prescribe by executive order or otherwise.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.7 of Title 63, unless there is created a duplication in numbering, reads as follows:

Each jurisdiction shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that jurisdiction and representatives of deceased members of such forces who sustain injuries or are killed while rendering aid pursuant to the Oklahoma Intrastate Mutual Aid Compact, in the same manner and on the same terms as if the injury or death were sustained within its own jurisdiction.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.8 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any jurisdiction rendering aid in another jurisdiction pursuant to the Oklahoma Intrastate Mutual Aid Compact shall be reimbursed by the jurisdiction receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided that any aiding jurisdiction may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving jurisdiction without charge or cost; and provided, further, that any two or more jurisdictions may enter into supplementary agreements establishing a different allocation of costs among those jurisdictions. Compensation expenses shall not be reimbursable under this section.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.9 of Title 63, unless there is created a duplication in numbering, reads as follows:

Plans for the orderly evacuation and interjurisdictional reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party jurisdictions of the Oklahoma Intrastate Mutual Aid Compact and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the jurisdiction from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors.

SECTION 12. REPEALER 63 O.S. 2001, Sections 688.1, 688.2, 688.3, 688.4 and 688.5, are hereby repealed.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 12th day of April, 2006.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2006.

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Presiding Officer of the House
of Representatives