

ENGROSSED SENATE
BILL NO. 242

By: Capps and Shurden of the
Senate

and

Morgan (Danny) of the House

[Oklahoma Emergency Management Act of 2003 -
establishing the Oklahoma Intrastate Mutual Aid
Compact - repealing the Civil Defense Shelter
Incentive Act - 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. 2004, 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. 2004, 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, mass immunization and prophylactic 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 13 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:

The purpose of this legislation is to create a system of intrastate mutual aid between participating jurisdictions in the state.

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

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.

Each participant of the system recognizes 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 that participating jurisdiction's criterion for declaration. 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.

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.

This mutual aid compact is made and entered into by and between the participating jurisdictions, hereinafter called "party jurisdictions", that enact the Compact.

In support of the Emergency Management Compact, Section 684.1 et seq of Title 63 of the Oklahoma Statutes, the Governor or the Governor's representative 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 party jurisdiction entering into the Oklahoma Intrastate Mutual Aid Compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under the Compact. Each jurisdiction further recognizes that there will be emergencies which require immediate access and will present 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 interjurisdictional mutual 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 party 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 party jurisdictions, insofar as practical, shall:

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

2. Review party jurisdictions' individual emergency plans 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, and 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.

8. Use the National Incident Management System (NIMS), and all on-scene management of an emergency or disaster shall be conducted using the Incident Command System (ICS).

B. The authorized representative of a party jurisdiction may request assistance of another party 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 assisting party's response and a point of contact at that location.

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

D. The chief elected officer of the jurisdiction shall not be obligated under the Compact to send the requested assistance, except

in such chief elected officer's sole and absolute discretion, and assistance may be withdrawn at any time in the sole and absolute discretion of the chief elected officer.

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 party 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 party jurisdiction shall afford the emergency forces of any party jurisdiction, while operating within its jurisdictional limits under the terms and conditions of the Compact, the same powers, duties, rights, and privileges except that of arrest unless specifically authorized by the receiving jurisdiction, 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. These provisions may be activated, as needed, only subsequent to a declaration of a jurisdiction emergency or disaster by the chief elected officer of the party jurisdiction that is to receive assistance, or upon commencement of exercises or training for mutual aid, and shall continue as long as the exercises or training for mutual aid are in progress, the jurisdiction of emergency or disaster remains in effect, or loaned resources remain in the receiving jurisdiction, whichever is longer.

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 jurisdiction party evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party 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 chief elected officer of 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:

Officers or employees of a party jurisdiction rendering aid in another jurisdiction pursuant to the Oklahoma Intrastate Mutual Aid Compact shall be considered agents of the requesting jurisdiction for tort liability and immunity purposes. No party jurisdiction or its officers or employees rendering aid in another jurisdiction pursuant to the Compact shall be liable on account of any act or omission in good faith on the party of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith shall not include willful misconduct, gross negligence, or recklessness.

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:

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more jurisdictions may differ from that among the party jurisdictions, the Oklahoma Intrastate

Mutual Aid Compact contains elements of a broad base common to all jurisdictions, and nothing herein shall preclude any jurisdiction entering into supplementary agreements with another jurisdiction or affect any other agreements already in force between jurisdictions. Supplementary agreements may include, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

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:

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 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.10 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any party jurisdiction rendering aid in another jurisdiction pursuant to the Oklahoma Intrastate Mutual Aid Compact shall be reimbursed by the party 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 party 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 party jurisdiction without charge or cost; and provided further, that any

two or more party 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 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 695.11 of Title 63, unless there is created a duplication in numbering, reads as follows:

Plans for the orderly evacuation and interjurisdiction 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 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. Such plans shall provide that the party jurisdiction receiving evacuees and the party jurisdiction from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party jurisdiction from which the evacuees come. After the termination of the emergency or disaster, the party jurisdiction from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

SECTION 14. REPEALER 63 O.S. 2001, Sections 688.1, 688.2, 688.3, 688.4 and 688.5, are hereby repealed.

SECTION 15. 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 8th day of March, 2005.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2005.

Presiding Officer of the House
of Representatives