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THE STATE SENATE
Wednesday, February 15, 2006

Committee Substitute for
Senate Bill No. 1422

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1422 - By: WYRICK of the Senate and GLENN of the House.

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), which relates to findings and declarations; specifying the incident management standard and incident command system for Oklahoma; amending 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), which relates to exemption from civil liability; protecting owners of facilities used for certain purposes; establishing the Oklahoma Intrastate Mutual Aid Compact; stating purpose; defining terms; defining jurisdiction; providing for intergovernmental coordination and assistance; defining responsibilities; limiting certain immunities; requiring qualifications for certain license; defining agents, tort liability and immunity; allowing jurisdictions not to participate; providing for and defining supplementary agreements among certain jurisdictions; specifying acknowledgements of member jurisdictions; providing certain duties of jurisdictional officials; specifying jurisdictional responsibility; providing procedures for report of assistance; allowing chief elected official to make certain decisions regarding assistance; encouraging jurisdictions to provide assistance; providing exception; affording certain powers; providing for command and control; providing for treatment of professional licenses; defining agents for certain purposes; providing certain immunity; providing for supplementary agreements; requiring certain reimbursements; requiring plans for civilian population evacuation between jurisdictions and defining certain requirements; repealing 63 O.S. 2001, 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.

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

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

5 Section 683.2 A. Because of the existing and increasing
6 possibility of the occurrence of disasters of unprecedented size and
7 destructiveness resulting from natural and man-made causes, in order
8 to ensure that preparations of this state will adequately deal with
9 such disasters and emergencies, to generally provide for the common
10 defense and to protect the public peace, health, and safety, to
11 preserve the lives and property of the people of this state, and to
12 carry out the objectives of state and national survival and recovery
13 in the event of a disaster or emergency, it is hereby found and
14 declared to be necessary to:

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

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

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

22 4. Confer upon the Governor and upon the executive heads or
23 governing bodies of the political subdivisions of the state the

1 emergency powers provided by the Oklahoma Emergency Management Act
2 of 2003;

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

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

10 B. It is further declared to be the purpose of the Oklahoma
11 Emergency Management Act of 2003 and the policy of this state that
12 all emergency management and hazard mitigation functions of this
13 state be coordinated to the maximum extent with the comparable
14 functions of the federal government, including its various
15 departments and agencies, of other states and localities, and of
16 private agencies of every type, to the end that the most effective
17 preparation and use may be made of available workforce, resources
18 and facilities for dealing with disaster and hazard mitigation.

19 C. It is also directed that each state agency, board,
20 commission, department or other state entity having responsibilities
21 either indicated in the state Emergency Operations Plan or by the
22 nature of the service it provides to the citizens of Oklahoma shall
23 have written plans and procedures in place to protect individual

1 employees, administrators and visitors from natural and man-made
2 disasters and emergencies occurring at the work place. Plans and
3 procedures shall be in concurrence with the Oklahoma Department of
4 Emergency Management Guidebook titled "Emergency Standard Operating
5 Procedures" for state departments, agencies, offices and employees.
6 Each state agency, board, commission, department or other state
7 entity shall provide a calendar year annual report on the status of
8 their emergency management program to the Department of ~~Emergency~~
9 ~~Management~~. The Department of ~~Emergency Management~~ shall compile
10 and integrate all reports into a report to the Governor and
11 Legislature on the status of state emergency preparedness.

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

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

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

1 Section 683.14 A. Any person owning or controlling real estate
2 or other premises who voluntarily and without compensation grants a
3 license or privilege or otherwise permits the designation or use of
4 the whole or any part or parts of such real estate or premises for
5 the purpose of sheltering persons, or providing a mass immunization
6 and prophylaxis site or Strategic National Stockpile storage site
7 during an actual or impending emergency or exercise shall, together
8 with any successors in interest, if any, not be civilly liable for
9 negligently causing the death of, or injury to, any person on or
10 about such real estate or premises for loss of, or damage to, the
11 property of such person; provided, that the injury or death was
12 caused by or incidental to the actual use of such premises for such
13 real, actual or impending emergency or exercise, and further
14 provided that nothing herein contained shall grant immunity from
15 gross, willful or wanton acts of negligence.

16 B. Neither the State of Oklahoma nor any political subdivision
17 thereof nor any officer or employee of the State of Oklahoma or of
18 any political subdivision thereof nor volunteer whose services have
19 been accepted and utilized by an officer or employee of the State of
20 Oklahoma or of any political subdivision thereof for carrying out
21 the functions of this act shall be civilly liable for any loss or
22 injury resulting to any person's company, corporation or other legal
23 entity as a result of any decision, determination, order or action

1 of such employee in the performance of ~~his~~ assigned duties and
2 responsibilities under this act during a stated emergency unless
3 such loss or injury was caused by the gross negligence, or willfully
4 and unnecessarily or by the wanton act of such state officer or
5 employee or volunteer. Nothing in this act shall be construed to
6 waive the sovereignty or immunity of the State of Oklahoma, or any
7 political subdivision thereof, from being sued.

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

11 Sections 3 through 14 of this act shall be known and may be
12 cited as the "Oklahoma Intrastate Mutual Aid Compact".

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

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

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

22 As used in this section:

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

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

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

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

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

20 Each participant of the system recognizes that emergencies
21 transcend political jurisdictional boundaries and that
22 intergovernmental coordination is essential for the protection of
23 lives and property and for best use of available assets both public

1 and private. The system shall provide for mutual assistance among
2 the participating jurisdictions in the prevention of, response to,
3 and recovery from, any disaster that results in a formal state of
4 emergency in a participating jurisdiction subject to that
5 participating jurisdiction's criterion for declaration. The system
6 shall provide for mutual cooperation among the participating
7 jurisdictions in conducting disaster-related exercises, testing or
8 other training activities outside actual declared emergency periods.
9 The Oklahoma Intrastate Mutual Aid Compact provides no immunity,
10 rights or privileges for any individual responding to a state of
11 emergency that is not requested and/or authorized to respond by a
12 participating jurisdiction. Participating jurisdictions will be
13 ensured eligibility, to the fullest extent possible, for state and
14 federal disaster funding.

15 All jurisdictions within the state, upon enactment of this
16 Compact, are automatically a part of the statewide mutual aid
17 system. A jurisdiction within the state may elect not to
18 participate or to later withdraw from the system upon enacting an
19 appropriate resolution by its governing body declaring that it
20 elects not to participate in the statewide mutual aid system and
21 providing a copy of the resolution to the Oklahoma Department of
22 Emergency Management. This Compact does not preclude participating
23 jurisdictions from entering into supplementary agreements with

1 another jurisdiction and does not affect any other agreement to
2 which a jurisdiction may currently be a party or decide to be a
3 party.

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

12 In support of the Emergency Management Compact, Section 684.1 et
13 seq. of Title 63 of the Oklahoma Statutes, the Governor or the
14 Governor's representative may request mutual aid assistance from
15 local jurisdictions for other states or their jurisdictions. In
16 such situations, the assisting local jurisdiction shall be
17 considered an agent of the state.

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

21 Each jurisdiction recognizes that there will be emergencies
22 which require immediate actions and implementation of procedures to
23 apply outside resources to make prompt and effective response to

1 such an emergency. This is because few, if any, individual
2 jurisdictions have all the resources they need in all types of
3 emergencies and the capability of delivering resources to the area
4 where emergencies occur.

5 The prompt, full and effective utilization of resources of the
6 participating jurisdictions, including any resources on hand or
7 available from any other source, that are essential to the safety,
8 care and welfare of the people in the event of any emergency or
9 disaster declared by a jurisdiction, shall be the underlying
10 principle on which all articles of the Oklahoma Intrastate Mutual
11 Aid Compact shall be understood.

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

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

20 A. It shall be the responsibility of each jurisdiction to
21 formulate procedural plans and programs for interjurisdictional
22 cooperation in the performance of the responsibilities listed in

1 this section. In formulating such plans, and in carrying them out,
2 the jurisdictions, insofar as practical, shall:

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

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

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

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

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

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

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

4 8. Use and conform to the current national standard for on-
5 scene management and command systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 SECTION 14. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 695.12 of Title 63, unless there
16 is created a duplication in numbering, reads as follows:

17 Plans for the orderly evacuation and interjurisdictional
18 reception of portions of the civilian population as the result of
19 any emergency or disaster of sufficient proportions to so warrant,
20 shall be worked out and maintained between the jurisdictions of the
21 Oklahoma Intrastate Mutual Aid Compact and the emergency management
22 or services directors of the various jurisdictions where any type of
23 incident requiring evacuations might occur. Such plans shall be put

1 into effect by request of the jurisdiction from which evacuees come
2 and shall include the manner of transporting such evacuees, the
3 number of evacuees to be received in different areas, the manner in
4 which food, clothing, housing, and medical care will be provided,
5 the registration of evacuees, the providing of facilities for the
6 notification of relatives or friends, and the forwarding of such
7 evacuees to other areas or the bringing in of additional materials,
8 supplies, and all other relevant factors.

9 SECTION 15. REPEALER 63 O.S. 2001, Sections 688.1,
10 688.2, 688.3, 688.4 and 688.5, are hereby repealed.

11 SECTION 16. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

15 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY AND HOMELAND
16 SECURITY, dated 2-13-06 - DO PASS, As Amended and Coauthored.