
SUBSTITUTE SENATE BILL 5420

State of Washington

62nd Legislature

2011 Regular Session

By Senate Government Operations, Tribal Relations & Elections
(originally sponsored by Senators Hobbs, Swecker, Pridemore, Kastama,
Tom, and White)

READ FIRST TIME 02/16/11.

1 AN ACT Relating to intrastate mutual aid in the event of
2 emergencies; amending RCW 38.52.040; and adding a new chapter to Title
3 38 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Assistance" means emergency responders and resources provided
8 by a responding member jurisdiction in response to a request from a
9 requesting member jurisdiction.

10 (2) "Department" means the state military department.

11 (3) "Emergency" means an event or set of circumstances that: (a)
12 Demand immediate action to preserve public health, protect life,
13 protect public property, or to provide relief to any stricken community
14 overtaken by such occurrence; or (b) reach such a dimension or degree
15 of destructiveness as to warrant the governor declaring a state of
16 emergency pursuant to RCW 43.06.010.

17 (4) "Emergency responder" means an employee of a responding member
18 jurisdiction who is designated in writing by that responding member
19 jurisdiction as possessing skills, qualifications, training, knowledge,

1 or experience that may be needed, pursuant to a request for assistance
2 under this chapter, for: (a) Response, mitigation, or recovery
3 activities related to an emergency; or (b) participation in drills or
4 exercises in preparation for an emergency.

5 (5) "Operational control" means the limited authority to direct
6 tasks, assignments, and use of assistance provided pursuant to a
7 request for assistance under this chapter to address: (a) Response,
8 mitigation, or recovery activities related to an emergency; or (b)
9 participation in drills or exercises in preparation for an emergency.

10 "Operational control" does not include any right, privilege, or benefit
11 of ownership or employment such as disposition, compensation, wages,
12 salary, pensions, health benefits, leave, seniority, discipline,
13 promotion, hiring, or firing.

14 (6) "Political subdivision" means any county, city, or town in the
15 state of Washington.

16 (7) "Requesting member jurisdiction" means a member jurisdiction
17 that requests assistance from another member jurisdiction under this
18 chapter.

19 (8) "Resources" includes supplies, materials, equipment,
20 facilities, energy, services, information, systems, and other assets
21 except for emergency responders that may be needed, pursuant to a
22 request for assistance under this chapter, for: (a) Response,
23 mitigation, or recovery activities related to an emergency; or (b)
24 participation in drills or exercises in preparation for an emergency.

25 (9) "Responding member jurisdiction" means a member jurisdiction
26 providing or intending to provide assistance to a requesting member
27 jurisdiction under this chapter.

28 NEW SECTION. **Sec. 2.** (1) The intrastate mutual aid system is
29 established to provide for mutual assistance in an emergency among
30 political subdivisions and federally recognized Indian tribes that
31 choose to participate as member jurisdictions.

32 (2) Except as provided in subsection (3) of this section, member
33 jurisdictions of the intrastate mutual aid system include:

- 34 (a) A political subdivision; and
- 35 (b) Any federally recognized Indian tribe located within the
36 boundaries of the state of Washington upon receipt by the department of

1 a tribal government resolution declaring its intention to be a member
2 jurisdiction in the intrastate mutual aid system under this chapter.

3 (3)(a) A member jurisdiction is released from membership in the
4 intrastate mutual aid system established under this chapter upon
5 receipt by the department of a resolution or ordinance declaring that
6 the member jurisdiction elects not to participate in the system.

7 (b) Nothing in this chapter may be construed to affect other mutual
8 aid systems or agreements otherwise authorized by law, including the
9 Washington state fire services mobilization plan and the law
10 enforcement mobilization plan under chapter 43.43 RCW, nor preclude a
11 political subdivision or Indian tribe from entering or participating in
12 those mutual aid systems or agreements.

13 (4) Mutual assistance may be requested by, and provided to, member
14 jurisdictions under this chapter for: (a) Response, mitigation, or
15 recovery activities related to an emergency; or (b) participation in
16 drills or exercises in preparation for an emergency.

17 NEW SECTION. **Sec. 3.** A member jurisdiction may request assistance
18 from other member jurisdictions under the intrastate mutual aid system
19 for response, mitigation, or recovery activities related to an
20 emergency, or to participate in drills or exercises in preparation for
21 an emergency, subject to each of the following provisions:

22 (1) Prior to requesting assistance, a requesting member
23 jurisdiction must: (a) Have determined an emergency exists within its
24 territorial limits consistent with applicable law, rule, regulation,
25 code, ordinance, resolution, or other applicable legal authority; or
26 (b) anticipate undertaking drills or exercises in preparation for an
27 emergency.

28 (2) The chief executive officer of a requesting member
29 jurisdiction, or authorized designee, must request assistance directly
30 from the chief executive officer, or authorized designee, of another
31 member jurisdiction. If this request is verbal, it must be confirmed
32 in writing within thirty days after the date of the request.

33 (3) A responding member jurisdiction may withhold or withdraw
34 requested assistance at any time and for any reason, in its sole
35 discretion.

36 (4) A responding member jurisdiction shall designate in writing all
37 assistance it provides to a requesting member jurisdiction at the time

1 provided consistent with the guidelines and procedures developed by the
2 intrastate mutual aid committee, and deliver copies of this
3 documentation to the requesting member jurisdiction within thirty days
4 after the assistance is provided.

5 (5) The requesting member jurisdiction only has operational control
6 of assistance provided under this chapter, which may not interfere with
7 a responding member jurisdiction's right to withdraw assistance.

8 NEW SECTION. **Sec. 4.** An emergency responder holding a license,
9 certificate, or other permit evidencing qualification in a
10 professional, mechanical, or other skill, issued by the state of
11 Washington or a political subdivision thereof, is deemed to be
12 licensed, certified, or permitted in the requesting member jurisdiction
13 for the duration of the emergency, drill, or exercise, subject to any
14 limitations and conditions the chief executive officer of the
15 requesting member jurisdiction may prescribe in writing.

16 NEW SECTION. **Sec. 5.** An emergency responder designated by a
17 responding member jurisdiction under section 3(4) of this act, who dies
18 or sustains an injury while providing assistance to a requesting member
19 jurisdiction as an emergency responder under this chapter, is entitled
20 to receive only the benefits otherwise authorized by law for death or
21 injury sustained in the course of employment with the responding member
22 jurisdiction. Any such benefits provided by a responding member
23 jurisdiction to an emergency responder must be included in the true and
24 full value of assistance provided for purposes of reimbursement under
25 section 7 of this act.

26 NEW SECTION. **Sec. 6.** An emergency responder is not an employee of
27 the requesting member jurisdiction and is not entitled to any right,
28 privilege, or benefit of employment from the requesting member
29 jurisdiction, including but not limited to, compensation, wages,
30 salary, leave, pensions, health, or other advantage.

31 NEW SECTION. **Sec. 7.** (1) A requesting member jurisdiction shall
32 reimburse a responding member jurisdiction for the true and full value
33 of all assistance provided under this chapter. However, if authorized

1 by law, a responding member jurisdiction may donate assistance provided
2 under this chapter to a requesting member jurisdiction.

3 (2) If a dispute regarding reimbursement arises between member
4 jurisdictions, the member jurisdiction asserting the dispute shall
5 provide written notice to the other identifying the reimbursement
6 issues in dispute. If the dispute is not resolved within ninety days
7 after receipt of the dispute notice by the other party, either party to
8 the dispute may invoke binding arbitration to resolve the reimbursement
9 dispute by giving written notice to the other party. Within thirty
10 days after receipt of the notice invoking binding arbitration, each
11 party shall furnish the other a list of acceptable arbitrators. The
12 parties shall select an arbitrator; failing to agree on an arbitrator,
13 each party shall select one arbitrator and the two arbitrators shall
14 select a third arbitrator for an arbitration panel. Costs of the
15 arbitration, including compensation for the arbitrator's services, must
16 be borne equally by the parties participating in the arbitration and
17 each party bears its own costs and expenses, including legal fees and
18 witness expenses, in connection with the arbitration proceeding.

19 NEW SECTION. **Sec. 8.** For purposes of tort liability or immunity,
20 an emergency responder of a responding member jurisdiction is
21 considered an agent of the requesting member jurisdiction. No
22 responding member jurisdiction or its officers or employees providing
23 assistance under this chapter is liable for any act or omission while
24 providing or attempting to provide assistance under this chapter in
25 good faith. For purposes of this section, good faith does not include
26 willful misconduct, gross negligence, or recklessness.

27 **Sec. 9.** RCW 38.52.040 and 1995 c 269 s 1202 are each amended to
28 read as follows:

29 (1) There is hereby created the emergency management council
30 (hereinafter called the council), to consist of not more than seventeen
31 members who shall be appointed by the governor. The membership of the
32 council shall include, but not be limited to, representatives of city
33 and county governments, sheriffs and police chiefs, the Washington
34 state patrol, the military department, the department of ecology, state
35 and local fire chiefs, seismic safety experts, state and local
36 emergency management directors, search and rescue volunteers, medical

1 professions who have expertise in emergency medical care, building
2 officials, and private industry. The representatives of private
3 industry shall include persons knowledgeable in emergency and hazardous
4 materials management. The council members shall elect a chairman from
5 within the council membership. The members of the council shall serve
6 without compensation, but may be reimbursed for their travel expenses
7 incurred in the performance of their duties in accordance with RCW
8 43.03.050 and 43.03.060 as now existing or hereafter amended.

9 (2) The emergency management council shall advise the governor and
10 the director on all matters pertaining to state and local emergency
11 management. The council may appoint such ad hoc committees,
12 subcommittees, and working groups as are required to develop specific
13 recommendations for the improvement of emergency management practices,
14 standards, policies, or procedures. The council shall ensure that the
15 governor receives an annual assessment of statewide emergency
16 preparedness including, but not limited to, specific progress on hazard
17 mitigation and reduction efforts, implementation of seismic safety
18 improvements, reduction of flood hazards, and coordination of hazardous
19 materials planning and response activities. The council or a
20 subcommittee thereof shall periodically convene in special session and
21 serve during those sessions as the state emergency response commission
22 required by P.L. 99-499, the emergency planning and community right-to-
23 know act. When sitting in session as the state emergency response
24 commission, the council shall confine its deliberations to those items
25 specified in federal statutes and state administrative rules governing
26 the coordination of hazardous materials policy. The council shall
27 review administrative rules governing state and local emergency
28 management practices and recommend necessary revisions to the director.

29 (3)(a) The intrastate mutual aid committee is created and is a
30 subcommittee of the emergency management council. The intrastate
31 mutual aid committee consists of not more than five members who must be
32 appointed by the council chair from council membership. The chair of
33 the intrastate mutual aid committee is the military department
34 representative appointed as a member of the council. Meetings of the
35 intrastate mutual aid committee must be held at least annually.

36 (b) In support of the intrastate mutual aid system established in
37 chapter 38.--- RCW (the new chapter created in section 11 of this act),
38 the intrastate mutual aid committee shall develop and update guidelines

1 and procedures to facilitate implementation of the intrastate mutual
2 aid system by member jurisdictions, including but not limited to the
3 following: Projected or anticipated costs; checklists and forms for
4 requesting and providing assistance; recordkeeping; reimbursement
5 procedures; and other implementation issues. These guidelines and
6 procedures are not subject to the rule making requirements of chapter
7 34.05 RCW.

8 NEW SECTION. **Sec. 10.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 11.** Sections 1 through 8 of this act constitute
13 a new chapter in Title 38 RCW.

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