

No. 2008-93

AN ACT

SB 1225

Amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, providing for mutual aid.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Chapter 73 of Title 35 of the Pennsylvania Consolidated Statutes is amended by adding a subchapter to read:

SUBCHAPTER C
INTRASTATE MUTUAL AID

Sec.

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§ 7331. Purpose of subchapter.

The purpose of this subchapter is to create a system of intrastate mutual aid between participating political subdivisions within this Commonwealth, whereby each participating political subdivision recognizes that emergencies transcend the boundaries of a political subdivision and that intergovernmental coordination is essential for the protection of lives and property and for the best use of available public and private assets. The system shall provide for mutual assistance among the participating political subdivisions in the prevention of, response to and recovery from threats to public health and safety that are beyond the capability of an affected community to respond. The system shall provide for mutual cooperation among the participating subdivisions in conducting exercises, testing or other training activities.

§ 7332. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agency." The Pennsylvania Emergency Management Agency.

“Committee.” The Intrastate Mutual Aid Committee.

“Dedicated emergency response organization.” Any entity organized, chartered or incorporated in this Commonwealth or chartered by the Congress of the United States for the primary purpose of providing emergency services. The term shall include volunteer, career and combination organizations.

“Emergency responder.” An individual in the public or private sector who has special skills, qualifications, training, knowledge or experience, whether or not the person possesses a license, certificate, permit or other official recognition for the skills, qualifications, training, knowledge or experience, that would benefit a participating political subdivision in responding to an authorized mutual aid request or participating in an authorized drill or exercise. The term shall include a law enforcement officer, a firefighter, an emergency medical services worker, a physician, nurse or other public health worker, an emergency management official, a coroner or medical examiner, a State-certified hazardous materials team member, a public works worker, a building inspector, an architect, an engineer or other design professional or a person with specialized equipment operations skills or training or with any other skills needed to provide aid in a declared emergency.

“Incident.” Any event or condition which constitutes an actual or imminent threat to public health and safety, public or private property or the economic well-being of the community.

“Incident commander.” The individual responsible for all incident-related activities, including the development of strategies and tactics and the ordering and releasing of resources as provided under the National Incident Management System.

“Mutual aid.” Mutual assistance and sharing of resources among participating political subdivisions in the prevention of, response to and recovery from threats to public health and safety that are beyond the capability of an affected community to respond.

“National Incident Management System.” The National Incident Management System established by the United States Department of Homeland Security.

“Participating political subdivision.” A political subdivision that has not opted out of the intrastate mutual aid system.

“Political subdivision.” Any county, city, borough, incorporated town or township. The term shall include any council of governments established among any of the above.

“Requesting political subdivision.” A participating political subdivision that requests assistance under this subchapter.

“Responding political subdivision.” A participating political subdivision that responds to a request for assistance under this subchapter.

“System.” The intrastate mutual aid system.

§ 7333. Intrastate Mutual Aid Committee.

(a) Establishment.—There is established the Intrastate Mutual Aid Committee.

(b) Membership.—The committee shall be comprised of the following members:

(1) The director of the agency or a designee, who shall serve as the chairman of the committee.

(2) The State Fire Commissioner and the Director of the Bureau of Emergency Medical Services of the Department of Health or any successor bureau or administrative unit having similar responsibilities.

(3) Three representatives each from the career fire services, the volunteer fire services and the emergency medical services.

(4) Three county emergency management agency directors, one from each agency area, who shall be recommended by the respective agency area directors.

(5) One representative each from the State Chiefs of Police Association, the State Fraternal Order of Police and the Pennsylvania State Police.

(6) One representative each from the Statewide county and municipal government associations' representative elected officials.

(7) Three representatives from county-based 911 programs.

(8) One representative from the Pennsylvania State Coroners Association.

(c) Appointments.—Each member under subsection (b) shall be appointed by the director of the agency, and the appointment shall be based on recommendations from the organizations and associations represented. The county-based 911 members shall be selected from recommendations made by the three agency area directors.

(d) Terms of office.—Members shall serve a term of two years and may be appointed for subsequent terms.

(e) Duties of committee.—The committee shall do all of the following:

(1) Hold at least one meeting each year to review the progress and status of the intrastate mutual aid system.

(2) Provide participating political subdivisions with a method to track and evaluate the system.

(3) Examine issues facing participating political subdivisions and emergency responders regarding the implementation of this subchapter.

(4) Prepare an annual report on the condition and effectiveness of mutual aid in this Commonwealth, which shall be submitted to the chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the Senate and the chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives. This report may contain recommendations for correcting any deficiencies within the system.

(5) Develop all of the following:

(i) *Comprehensive guidelines and procedures that address all of the following:*

(A) *Projected or anticipated costs potentially incurred by a participating political subdivision.*

(B) *Recordkeeping for participating political subdivisions.*

(C) *Reimbursement procedures and other necessary implementation elements.*

(D) *Any other procedures that the committee deems necessary.*

(ii) *Checklists for requesting and providing assistance.*

(iii) *Forms for requests and other records to document the deployment and return of assets.*

§ 7334. System.

(a) *Establishment.—An intrastate mutual aid system is established for the purpose of providing mutual aid within this Commonwealth.*

(b) *Participation.—*

(1) *All political subdivisions within this Commonwealth shall be a part of the system unless the political subdivision elects not to participate by enacting a resolution declaring their desire not to participate and by submitting a copy of the resolution to the agency and to its county emergency management agency.*

(2) *All political subdivisions within this Commonwealth shall consult with fire and emergency medical services providers to discuss the emergency services needs of the political subdivision.*

(3) *Any political subdivision that elects not to participate in the system, as provided under subsection (a), may at a later date elect to participate in the system by enacting a resolution declaring its desire to participate and by submitting a copy of the resolution to the agency and to its county emergency management agency.*

(4) *Participation by a political subdivision in the system of intrastate mutual aid established by this subchapter shall not be subject to the requirements of 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation).*

(c) *Responsibilities.—It shall be the responsibility of each participating political subdivision with jurisdiction over and responsibility for emergency management within that political subdivision to do all of the following:*

(1) *Identify potential hazards that could affect the participating political subdivision using an identification system as developed by the committee common to all participating political subdivisions.*

(2) *Conduct joint planning, intelligence sharing and threat assessment development with contiguous participating political subdivisions.*

(3) *Conduct joint training with contiguous participating political subdivisions at least biennially.*

(4) *Identify and inventory the current services, equipment, supplies, personnel and other resources related to planning, prevention,*

mitigation, response and recovery activities of the participating political subdivisions in accordance with the National Incident Management System Integration Center resource management guidance.

(5) Adopt and implement the standardized incident management system approved by the agency.

(6) Adopt and implement the National Incident Management System requirements established by the United States Department of Homeland Security.

§ 7335. Assistance.

(a) Requests.—A participating political subdivision may request assistance of other participating political subdivisions or their designated emergency response organizations. All requests for assistance shall be initiated from the incident commander or authorized designee at an incident location, the county 911 center or the county emergency manager where the incident occurs. All intrastate mutual aid requests for assistance shall be made to the county 911 center or county emergency management coordinator or authorized designee in the responding county. Intrastate mutual aid requests for assistance may also be made through the agency. A written request shall be submitted after a verbal request is made as soon as practicable or within the number of days that the agency, in its discretion, may determine.

(b) Response to requests.—A participating political subdivision's obligation to provide assistance in the prevention of, response to and recovery from an incident or in authorized drills or exercises shall be subject to all of the following conditions:

(1) A responding political subdivision may withhold resources to the extent necessary to provide reasonable protection and services for its own jurisdiction.

(2) Emergency response personnel of a responding political subdivision shall remain under the administrative and policy procedures and control of their respective jurisdiction, including medical protocols, standard operating procedures and other protocols, but shall be under the operational control of the appropriate officials within the incident management system of the requesting political subdivision.

(3) Assets and equipment of a responding political subdivision shall remain under the administrative and policy procedures and control of their respective jurisdiction but shall be under the control of the appropriate officials within the incident management system of the requesting political subdivision.

(4) The incident commander shall have overall authority and responsibility for conducting incident operations and shall be responsible for the management of all incident operations at the incident site.

(c) *Reimbursement.*—A requesting political subdivision shall reimburse the responding political subdivision in accordance with procedures established by the committee. A responding political subdivision may donate assets of any kind to a participating political subdivision. If a dispute arises regarding reimbursement, involved parties shall make every effort to resolve the dispute within 30 days of written notice of the dispute by the party asserting noncompliance. In the event that the dispute is not resolved within 90 days of the notice of the claim, either party may request the dispute be resolved through arbitration. Any arbitration requested under this subsection shall be conducted under the commercial arbitration rules of the American Arbitration Association.

(d) *Exceptions.*—The provisions of this section shall not apply to specific mutual aid agreements which exist on the effective date of this section and which were made between political subdivisions and emergency response organizations to cover response to routine incidents.

§ 7336. *License, certificate and permit portability.*

If a person holds a license, certificate or other permit issued by a participating political subdivision or the Commonwealth evidencing qualification in a professional, mechanical or other skill and the assistance of that person or entity is requested by a participating political subdivision, the person shall be deemed to be licensed, certified or permitted in the political subdivision requesting assistance for the duration of the incident response or authorized drills or exercises and subject to any limitations and conditions the chief executive of the participating political subdivision receiving the assistance may prescribe by executive order or otherwise.

§ 7337. *Insurance.*

A responding political subdivision shall ensure that adequate insurance protection is in effect covering all vehicles and equipment used in response to an intrastate mutual aid request. Personnel of the responding political subdivision shall maintain direct and overall control of all vehicles and equipment utilized in an intrastate mutual aid response and shall ensure that vehicles and equipment are used within intended design specifications.

§ 7338. *Workers' compensation.*

Notwithstanding any other provision of law, a responding political subdivision shall provide appropriate workers' compensation insurance protection for municipal employees and volunteers representing the responding political subdivision when responding to a request under this system. Personnel of a responding political subdivision who sustain injury or death in the course of and arising out of their employment shall be entitled to all applicable benefits normally available to personnel while performing their duties for their employer. Responders shall receive any additional Federal and State benefits that may be available to them for line-of-duty deaths.

§ 7339. *Immunity.*

All activities performed under the intrastate mutual aid system are deemed to be governmental functions. For the purposes of liability, all persons responding under the operational control of the requesting political subdivision shall be deemed to be employees of the requesting participating political subdivision. Except in cases of willful misconduct, gross negligence or bad faith, neither the participating political subdivisions nor their employees shall be liable for the death of or injury to persons or for damage to property when complying or attempting to comply with the system. This subchapter shall provide no immunity, rights or privileges for any individual responding to an incident where the response has not been requested by a participating political subdivision.

§ 7340. Effect on other agreements.

Nothing in this subchapter shall preclude participating political subdivisions from entering into supplementary agreements with another political subdivision. Nothing in this subchapter shall affect any other agreement to which a political subdivision may, on the effective date of this section, be a party.

Section 2. This act shall take effect immediately.

APPROVED—The 8th day of October, A.D. 2008.

EDWARD G. RENDELL