

HOUSE BILL No. 2982

AN ACT enacting the Kansas intrastate emergency mutual aid act; providing for a system of intrastate mutual aid between participating political subdivisions in cases of declared disasters and drills and exercises in preparation for such disasters.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) This act may be cited as the Kansas intrastate emergency mutual aid act.

(b) The purpose of this act is to create a system of intrastate mutual aid between participating Kansas political subdivisions. Each participant of this 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 political subdivisions in the prevention of, response to and recovery from any disaster that results in a formal state of emergency in a participating political subdivision, subject to such participating political subdivision's criterion for a declaration. The system shall provide for mutual cooperation among the participating subdivisions in conducting disaster-related exercises, testing or other training activities outside actual declared emergency periods. The system shall provide a common glossary and definitions of resources based on a resource management program. This legislation provides no immunity, rights or privileges for any individual responding to a state of emergency that is not requested or authorized, or both, to respond by a participating political subdivision. Participating political subdivisions will be ensuring to the fullest extent possible, eligibility for state and federal disaster funding.

Sec. 2. As used in this act:

(a) "Division" means the division of emergency management within the office of the adjutant general.

(b) "Emergency responder" means any person in the public or private sector who: (1) Has special skills, qualifications, training, knowledge and experience which would be beneficial to a participating political subdivision in response to a locally-declared emergency as defined in any applicable law or ordinance or authorized drill or exercises; and (2) is requested or authorized, or both, to respond. An emergency responder may or may not be required to possess a license, certificate, permit or other official recognition for the emergency responder's expertise in a particular field or area of knowledge. "Emergency responder" may include, but is not limited to, the following: Law enforcement officers, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency management personnel, public works personnel and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency.

Sec. 3. All political subdivisions within the state, upon enactment of this act, are automatically a part of the Kansas mutual aid system. A political subdivision may elect not to participate or to later withdraw from the system by adoption of 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 division. This act does not preclude participating political subdivisions from entering into supplementary agreements with another political subdivision and does not affect any other agreement to which a political subdivision may currently or in the future be a party under other Kansas statutes.

Sec. 4. It shall be the responsibility of each participating political subdivision with jurisdiction over and responsibility for emergency management within such subdivision to:

(a) Identify potential hazards that could affect the participating political subdivision, using an identification system common to all participating jurisdictions;

(b) conduct joint planning, intelligence sharing and threat assessment development with contiguous participating political subdivisions and conduct joint training;

(c) identify and inventory the current services, equipment, supplies, personnel and other resources related to planning, prevention, mitigation and response and recovery activities of the participating political subdivision; and

(d) adopt, train on and operate using the national incident management system as approved by division.

Sec. 5. A participating political subdivision may request assistance of other participating political subdivisions in preventing, mitigating, responding to and recovering from disasters that result in locally-declared emergencies or in concert with authorized drills or exercises as allowed under this legislation. Requests for assistance shall be made through the chief executive officer of a participating political subdivision or the chief executive officer's designee. Requests may either be verbal or in writing and are not required to go directly to the division but in all cases will be reported to the division as soon as is practical. Verbal requests will be followed up with a written request as soon as is practical or such number of days as the division in its discretion may dictate.

Sec. 6. A participating political subdivision's obligation to provide assistance in the prevention of, response to and recovery from a locally-declared emergency or in authorized drills or exercises is subject to the following conditions:

(a) A participating political subdivision requesting assistance must have either declared a state of emergency in the manner specified in K.S.A. 48-932, and amendments thereto, or authorized drills and exercises;

(b) a responding participating political subdivision may withhold resources to the extent necessary to provide reasonable protection and services for its own jurisdiction;

(c) emergency responders of a responding participating political subdivision shall continue under the command and control of their responding jurisdiction, to include 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 participating political subdivision receiving the assistance; and

(d) assets and equipment of a responding participating political subdivision shall continue under the control of the responding political subdivision but shall be under the operational control of the appropriate officials within the incident management system of the participating political subdivision receiving the assistance.

Sec. 7. If a person or entity holds a license, certificate or other permit issued by a participating political subdivision or the state evidencing qualification in a professional, mechanical or other skill and the assistance of such person or entity is requested by a participating political subdivision, the person or entity shall be deemed to be licensed, certified or permitted in the political subdivision requesting assistance for the duration of the declared emergency or authorized drills or exercises, subject to any limitations and conditions the chief executive of the participating political subdivision receiving the assistance may prescribe by executive order or otherwise.

Sec. 8. The division shall develop comprehensive guidelines and procedures for implementation of the Kansas mutual aid system, including, but not limited to, the following: Projected or anticipated costs, checklists for requesting and providing assistance, record keeping for all participating political subdivisions, reimbursement procedures, use of a common glossary of terms and definitions of resources and other necessary implementation elements, along with the necessary forms for requests and other records documenting deployment and return of assets.

Sec. 9. Personnel of a participating political subdivision responding to or rendering assistance for a request who sustain injury or death in the course of, and arising out of, their employment are entitled to all applicable benefits normally available to personnel while performing their duties for their employer. Such personnel shall receive any additional state and federal benefits that may be available to them for line-of-duty deaths.

Sec. 10. All activities performed under this act are deemed hereby to be governmental functions. For the purposes of liability, all persons responding under the operational control of the requesting political subdivision are 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 Kansas mutual aid system.

Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provision or application. To this end the provisions of this act are severable.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.