

SENATE BILL NO. 102
INTRODUCED BY G. LIND
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING MUTUAL AID AGREEMENTS FOR PROTECTION AGAINST ~~NATURAL~~ DISASTERS, ~~AND OTHER INCIDENTS,~~ AND EMERGENCIES; INCLUDING GOVERNING BODIES OF ~~POLITICAL SUBDIVISIONS IN OTHER STATES~~ FIRE PROTECTION SERVICES, EMERGENCY MEDICAL CARE PROVIDERS, AND LOCAL GOVERNMENT SUBDIVISIONS AS ENTITIES THAT MAY PARTICIPATE IN CERTAIN MUTUAL AID AGREEMENTS AND FROM WHICH ASSISTANCE MAY BE REQUESTED; ~~REQUIRING THE GOVERNOR TO ALLOW POLITICAL SUBDIVISIONS TO DIRECTLY NEGOTIATE MUTUAL AID AGREEMENTS; REQUIRING THE GOVERNOR TO DESIGNATE POLITICAL SUBDIVISIONS AS OFFICIALS AUTHORIZED TO REQUEST AND RECEIVE MUTUAL AID ASSISTANCE;~~ AMENDING SECTIONS 7-33-2108, 7-33-2202, 7-33-2405, 7-33-4112, 10-3-202, ~~10-3-205, 10-3-207,~~ AND 10-3-209, 10-3-1102, AND 10-3-1103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-33-2108, MCA, is amended to read:

"7-33-2108. Mutual aid agreements -- request if no agreement exists -- definitions. (1) A mutual aid agreement is an agreement for protection against ~~natural~~ disasters, incidents, or emergencies ~~or against disasters, incidents, or emergencies caused by persons.~~

(2) Fire district trustees may enter mutual aid agreements with the proper authority of:

- (a) other fire districts;
- (b) unincorporated municipalities;
- (c) incorporated municipalities;
- (d) state agencies;
- (e) private fire prevention agencies;
- (f) federal agencies;
- (g) fire service areas; ~~and~~
- (h) governing bodies of other political subdivisions in Montana; and

~~(i) governing bodies of political subdivisions in any state that has entered into an interstate mutual aid compact with the state of Montana~~ FIRE PROTECTION SERVICES, EMERGENCY MEDICAL CARE PROVIDERS, AND LOCAL GOVERNMENT SUBDIVISIONS PURSUANT TO TITLE 10, CHAPTER 3, PART 11.

(3) If the fire district trustees have not concluded a mutual aid agreement, then the trustees, a representative of the trustees, or an incident commander may request assistance pursuant to 10-3-209.

(4) As used in this section, "incidents", "disasters", ~~or~~ AND "emergencies" ~~has the meaning ascribed to the term~~ HAVE THE MEANINGS PROVIDED in 10-3-103."

Section 2. Section 7-33-2202, MCA, is amended to read:

"7-33-2202. Functions of county governing body. The county governing body, with respect to rural fire control, shall carry out the specific authorities and duties imposed in this section:

(1) The governing body shall:

- (a) provide for the organization of volunteer rural fire control crews; and
- (b) provide for the formation of county volunteer fire companies.

(2) The governing body shall appoint a county rural fire chief and ~~such~~ district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, ~~as~~ that it considers necessary.

(3) The county governing body shall, within the limitations of 7-33-2205 through 7-33-2209, protect the range, farm, and forest lands within the county from fire.

(4) The county governing body may enter into mutual aid agreements for itself and for county volunteer fire companies with:

- (a) other fire districts;
- (b) unincorporated municipalities;
- (c) incorporated municipalities;
- (d) state agencies;
- (e) private fire prevention agencies;
- (f) federal agencies;
- (g) fire service areas; ~~or~~
- (h) governing bodies of other political subdivisions in Montana; or

~~(i) governing bodies of political subdivisions in any state that has entered into an interstate mutual aid compact with the state of Montana~~ FIRE PROTECTION SERVICES, EMERGENCY MEDICAL CARE PROVIDERS, AND LOCAL GOVERNMENT SUBDIVISIONS PURSUANT TO TITLE 10, CHAPTER 3, PART 11.

(5) If the county governing body has not concluded a mutual aid agreement, the county governing body, a representative of the county governing body, or an incident commander may request assistance pursuant to 10-3-209."

Section 3. Section 7-33-2405, MCA, is amended to read:

"7-33-2405. Mutual aid agreements -- request if no agreement exists -- definitions. (1) A mutual aid agreement is an agreement for protection against ~~natural~~ disasters, incidents, or emergencies ~~or against disasters, incidents, or emergencies caused by persons.~~

(2) The governing body of a fire service area may enter mutual aid agreements with the proper authority of:

- (a) other fire service areas;
- (b) unincorporated municipalities;
- (c) incorporated municipalities;
- (d) state agencies;
- (e) private fire prevention agencies;
- (f) federal agencies;
- (g) fire districts; ~~and~~
- (h) governing bodies of other political subdivisions in Montana; and

(i) governing bodies of political subdivisions in any state that has entered into an interstate mutual aid compact with the state of Montana FIRE PROTECTION SERVICES, EMERGENCY MEDICAL CARE PROVIDERS, AND LOCAL GOVERNMENT SUBDIVISIONS PURSUANT TO TITLE 10, CHAPTER 3, PART 11.

(3) If the governing body of a fire service area has not concluded a mutual aid agreement, the governing body, a representative of the governing body, or an incident commander may request assistance pursuant to 10-3-209.

(4) As used in this section, "incidents", "disasters", ~~or AND~~ "emergencies" ~~has the meaning ascribed to the term~~ have the meanings provided in 10-3-103."

Section 4. Section 7-33-4112, MCA, is amended to read:

"7-33-4112. Mutual aid agreements -- request if no agreement exists -- definitions. (1) A mutual aid agreement is an agreement for protection against ~~natural~~ disasters, incidents, or emergencies ~~or against disasters, incidents, or emergencies caused by persons.~~

(2) Councils or commissions of incorporated municipalities may enter mutual aid agreements with the proper authority of:

(a) other incorporated municipalities;

(b) fire districts;

(c) unincorporated municipalities;

(d) state agencies;

(e) private fire prevention agencies;

(f) federal agencies;

(g) fire service areas; ~~or~~

(h) the governing body of other political subdivisions; or

(i) governing bodies of political subdivisions in any state that has entered into an interstate mutual aid compact with the state of Montana FIRE PROTECTION SERVICES, EMERGENCY MEDICAL CARE PROVIDERS, AND LOCAL GOVERNMENT SUBDIVISIONS PURSUANT TO TITLE 10, CHAPTER 3, PART 11.

(3) If the council or commission has not concluded a mutual aid agreement, the council or commission, a representative of the council or commission, or an incident commander may request assistance pursuant to 10-3-209.

(4) As used in this section, "~~incidents~~", the terms "disasters", or "emergencies" has the meaning ascribed to the term, or "incidents" have the meanings provided in 10-3-103.

Section 5. Section 10-3-202, MCA, is amended to read:

"10-3-202. Mutual aid -- cooperation. (1) ~~Political subdivisions, fire districts, fire service areas, and fire companies in unincorporated places~~ and governmental fire agencies organized under Title 7, chapter 33, must be encouraged and assisted by the division to conclude mutual aid arrangements with other public and private agencies within this state or in any state that has entered into an interstate mutual aid compact with the state of Montana PURSUANT TO TITLE 10, CHAPTER 3, PART 11, for reciprocal aid and assistance in coping with incidents, emergencies, and disasters.

(2) In reviewing disaster and emergency plans and programs of political subdivisions, the division shall consider whether they contain adequate provisions for the reciprocal mutual aid.

(3) Local and interjurisdictional disaster and emergency agencies may assist in negotiation of reciprocal mutual aid agreements between the governor and the adjoining states (including foreign states or provinces) or political subdivisions of adjoining states or may directly negotiate and execute supplemental mutual aid

~~agreements in accordance with 10-3-205(3)~~ and shall carry out arrangements of any of the agreements relating to the local and political subdivision.

(4) In providing assistance under parts 1 through 4 of this chapter, state departments and agencies shall cooperate to the fullest extent possible with each other and with local governments and relief agencies such as the American national red cross. Parts 1 through 4 of this chapter do not list or in any way affect the responsibilities of the American national red cross under the act approved January 5, 1905 (33 Stat. 559), as amended its congressional charter."

~~Section 6.~~ Section 10-3-205, MCA, is amended to read:

~~"10-3-205. Authority to join interstate mutual aid compact -- supplemental agreements.~~ (1) The governor of the state of Montana is hereby authorized for and in the name of the state of Montana to may join with other states in the interstate mutual aid compact.

~~(2) The governor of the state of Montana is hereby authorized to may negotiate and execute such any supplemental agreements as may be that are necessary and proper to fully carry into effect the terms and provisions of the interstate mutual aid compact as set forth provided in 10-3-207.~~

~~(3) The governor shall take all necessary action to delegate authority to political subdivisions to directly negotiate and execute supplemental mutual aid agreements in accordance with 7-33-2108(2)(i), 7-33-2202(4)(i), 7-33-2405(2)(i), and 7-33-4112(2)(i).~~

~~(4) The governor shall take all necessary action to designate any political subdivision as an official authorized to request or receive assistance in accordance with Article III of the interstate mutual aid compact provided in 10-3-207 and the remaining terms and provisions of that compact."~~

~~Section 7.~~ Section 10-3-207, MCA, is amended to read:

~~"10-3-207. Text of compact.~~ The interstate mutual aid compact referred to in 10-3-204 and 10-3-205 Title 7, chapter 33, and in this part reads as follows:

INTERSTATE MUTUAL AID COMPACT Article I

~~The purpose of this compact is to provide voluntary assistance among participating states in responding to any disaster or imminent disaster that overextends the ability of local and state governments to reduce, counteract, or remove the danger. Assistance may include but is not limited to rescue, fire, police, medical, communication, and transportation services and facilities to cope with problems which require use of special equipment, trained personnel, or personnel in large numbers not locally available.~~

~~Article II~~

~~Article I, section 10, of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of congress. Congress, through enactment of 50 U.S.C. 2281(g) and 2283 (now repealed) and the executive branch, by issuance of Executive Orders No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster, and civil defense mutual aid agreements or pacts:~~

~~Article III~~

~~It is agreed by participating states that the following conditions will guide implementation of the compact:~~

~~(1) Participating states through their designated officials are authorized to request and receive assistance from a participating state. Requests will be granted only if the requesting state is committed to the mitigation of the emergency and other resources are not immediately available:~~

~~(2) Requests for assistance may be verbal or in writing. If the request is made by other than written communication, it must be confirmed in writing as soon as practical after the request. A written request shall provide an itemization of equipment and operators, types of expertise, and personnel or other resources needed. Each request must be signed by an authorized official:~~

~~(3) Personnel and equipment of the aiding state made available to the requesting state shall, whenever possible, remain under the control and direction of the aiding state. The activities of personnel and equipment of the aiding state must be coordinated by the requesting state:~~

~~(4) An aiding state has the right to withdraw some or all of its personnel and equipment whenever the personnel and equipment are needed by that state. Notice of intention to withdraw should be communicated to the requesting state as soon as possible:~~

~~Article IV~~

~~(1) The requesting state shall reimburse the aiding state as soon as possible after the receipt by the requesting state of an itemized voucher requesting reimbursement of costs:~~

~~(2) Any state rendering aid pursuant to this compact must be reimbursed by the state receiving such aid for any damage to, loss of, or expense incurred in the operation of any equipment used in responding to a request for aid, and for the cost incurred in connection with such requests:~~

~~(3) Any state rendering aid pursuant to this compact must be reimbursed by the state receiving such aid for the cost of compensation and death benefits to injured officers, agents, or employees and their dependents or representatives if such officers, agents, or employees sustain injuries or are killed while rendering aid pursuant to this arrangement and such payments are made in the same manner and on the same terms as if the injury or~~

death were sustained within the aiding state:

~~Article V~~

~~(1) All privileges and immunities from liability, exemptions from law, ordinances, and rules and all pension, disability relief, workers' compensation, and other benefits that apply to the activity of officers, agents, or employees when performing their respective functions within the territorial limits of their respective political subdivisions apply to them to the same extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this compact.~~

~~(2) All privileges and immunities from liability, exemptions from law, ordinances, and rules and workers' compensation and other benefits that apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits apply to the same extent while performing their functions extraterritorially under the provisions of this compact. Volunteers may include but are not limited to physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers.~~

~~(3) The signatory states, their political subdivisions, municipal corporations, and other public agencies shall hold harmless the corresponding entities and personnel thereof from the other state with respect to the acts and omissions of its own agents and employees that occur while providing assistance pursuant to the common plan.~~

~~(4) Nothing in this arrangement may be construed as repealing or impairing any existing interstate mutual aid agreements.~~

~~(5) Upon enactment of this compact by two or more states, and annually by each January 1 thereafter, the participating states will exchange with each other the names of officials designated to request and provide services under this arrangement. In accordance with the cooperative nature of this arrangement, it is permissible and desirable for the states to exchange operational procedures to be followed in requesting assistance and reimbursing expenses.~~

~~(6) This compact becomes effective and is binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact becomes effective and binding as to any other state upon similar action by such state.~~

~~(7) This compact remains binding upon a party state until it enacts a law repealing the compact and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal may not take effect until the 30th consecutive day after the notice has been sent. Such withdrawal does not relieve the withdrawing state from its obligations assumed under this~~

~~compact prior to the effective date of withdrawal."~~

Section 6. Section 10-3-209, MCA, is amended to read:

"10-3-209. Political subdivision requests for assistance -- application to fire districts, fire service areas, and fire companies in unincorporated places -- immunity. (1) If an incident, emergency, or disaster occurs in a political subdivision that has not concluded a mutual aid agreement pursuant to 10-3-202, the local or interjurisdictional agency, incident commander, or principal executive officer of the political subdivision may request assistance from another public or private agency.

(2) (a) The following individuals or entities may request assistance with an incident, emergency, or disaster if a mutual aid agreement has not been concluded for protection of the area within the jurisdiction of these individuals or entities:

(i) the trustees of a rural fire district created pursuant to Title 7, chapter 33, part 21, a representative of the trustees, or an incident commander for the district;

(ii) the chief of a rural fire company organized pursuant to 7-33-2311 or an incident commander for the chief;

(iii) the governing body of a fire service area created pursuant to Title 7, chapter 33, part 24, a representative of the governing body, or an incident commander for the area.

(b) A request for assistance by an individual or entity under subsection (2)(a) may be made to any of the following:

(i) a fire district;

(ii) an unincorporated municipality;

(iii) an incorporated municipality;

(iv) a state agency;

(v) a private fire prevention agency;

(vi) an agency of the federal government;

(vii) a fire service area; ~~or~~

(viii) the governing body of a political subdivision; or

(ix) the governing body of a political subdivision in any state that has entered into an interstate mutual aid compact with the state of Montana BODIES OF FIRE PROTECTION SERVICES, EMERGENCY MEDICAL CARE PROVIDERS, AND LOCAL GOVERNMENT SUBDIVISIONS OF ANY OTHER STATE OR THE UNITED STATES PURSUANT TO PART 11 OF THIS CHAPTER.

(3) A public or private agency receiving a request pursuant to subsection (1) or (2) shall determine if it will provide the requested assistance; or if it will provide other assistance; and shall inform the requesting local or interjurisdictional agency, principal executive officer, incident commander, or other individual or entity making the request, as soon as possible, of that determination. The nature and extent of assistance provided by a public or private agency may be determined only by that public or private agency.

(4) The incident commander of the local or interjurisdictional agency making a request for assistance has overall responsibility for command of the resources provided by a public or private agency responding to a request. However, operational control of individual pieces of equipment and personnel furnished by the responding public or private agency remains with that agency.

(5) This section does not waive an immunity or limitation on liability applicable to any of the following entities or individuals requesting or receiving assistance pursuant to this section:

- (a) a fire district;
- (b) a fire service area;
- (c) a fire company;
- (d) an unincorporated municipality, town, or village;
- (e) a political subdivision; or
- (f) an agent, employee, representative, or volunteer of an entity listed in this subsection."

SECTION 7. SECTION 10-3-1102, MCA, IS AMENDED TO READ:

"10-3-1102. Purpose. It is the purpose of this part to permit one or more fire protection services, emergency medical care providers, or local government subdivisions of this state to enter into mutual aid agreements, on the basis of mutual advantage, with one or more fire protection services, emergency medical care providers, or local government subdivisions of any other state or the United States in order to facilitate and coordinate efficient, cooperative ~~firefighting~~ efforts directed toward protection of life and property in areas transcending state boundaries that, due to geographic remoteness, population sparsity, and economic or other factors, are in need of ~~such~~ those services."

SECTION 8. SECTION 10-3-1103, MCA, IS AMENDED TO READ:

"10-3-1103. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

- (1) "Emergency medical care provider" means a local government subdivision or other entity, whether

public or private, licensed by the state to provide emergency medical services pursuant to Title 50, chapter 6.

(2) "Fire protection service" means a ~~paid or volunteer fire department, fire company, governmental fire agency organized under Title 7, chapter 33, or other another~~ fire suppression entity organized under the laws of this state, any ~~party other~~ state, or an agency of the government of the United States.

(3) "Local government subdivision" means the local governmental entity, other than state government, including but not limited to incorporated towns and cities, townships, and counties.

(4) "Mutual aid agreement" or "agreement" means an agreement, consistent with the purposes of this part, by one or more fire protection services, emergency medical care providers, or local government subdivisions of this state with one or more fire protection services, emergency medical care providers, or local government subdivisions of any other state or the United States.

(5) "Party emergency service" means a fire protection service, emergency medical care provider, local government subdivision, or agency of the United States that is a party to a mutual aid agreement as ~~set forth~~ provided in this part."

NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

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