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HOUSE BILL NO. 1127

Offered January 13, 2016

Prefiled January 13, 2016

A *BILL to amend and reenact §§ 10.1-1149 and 10.1-1150 of the Code of Virginia and to repeal § 3 of Chapter 63 of the Acts of Assembly of 1956, relating to forest fire protection compacts.*

Patron—Habeeb

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1149 and 10.1-1150 of the Code of Virginia are amended and reenacted as follows:
§ 10.1-1149. Southeastern Interstate Forest Fire Protection Compact.

Chapter 63 of the 1956 Acts of Assembly authorizing the Governor to execute a compact to promote effective prevention and control of forest fires in the Southeastern region of the United States, is incorporated in this Code by this reference.

§ 1. The Governor is hereby authorized to execute, on behalf of the Commonwealth of Virginia, a compact with any one or more of the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and West Virginia, which compact shall be in form substantially as follows:

SOUTHEASTERN INTERSTATE FOREST FIRE PROTECTION COMPACT.**Article I.**

The purpose of this compact is to promote effective prevention and control of forest fires in the Southeastern region of the United States by the development of integrated forest fire plans, by the maintenance of adequate forest fire fighting services by the member states, by providing for mutual aid in fighting forest fires among the compacting states of the region and with states which are party to other Regional Forest Fire Protection compacts or agreements, and for more adequate forest protection.

Article II.

This compact shall become operative immediately as to those states ratifying it whenever any two or more of the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, which are contiguous have ratified it and Congress has given consent thereto. Any state not mentioned in this article which is contiguous with any member state may become a party to this compact, subject to approval by the legislature of each of the member states.

Article III.

In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control shall act as compact administrator for that state and shall consult with like officials of the other member states and shall implement cooperation between such states in forest fire prevention and control.

The compact administrators of the member states shall coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact.

There shall be established an advisory committee of legislators, forestry commission representatives, and forestry or forest products industries representatives which shall meet from time to time with the compact administrators. Each member state shall name one member of the Senate and one member of the House of Representatives who shall be designated by that state's commission on interstate cooperation, or if said commission cannot constitutionally designate the said members, they shall be designated in accordance with laws of that state; and the Governor of each member state shall appoint two representatives, one of whom shall be associated with forestry or forest products industries to comprise the membership of the advisory committee. Action shall be taken by a majority of the compacting states, and each state shall be entitled to one vote.

The compact administrators shall formulate and, in accordance with need, from time to time, revise a regional forest fire plan for the member states.

It shall be the duty of each member state to formulate and put in effect a forest fire plan for that state and take such measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the compact administrators.

Article IV.

Whenever the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling or preventing forest fires, it shall be the duty of the state forest fire control agency of that state to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home.

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Article V.

Whenever the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of such state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance, or use of any equipment or supplies in connection therewith; Provided, that nothing herein shall be construed as relieving any person from liability for his own negligent act or omission, or as imposing liability for such negligent act or omission upon any state.

All liability, except as otherwise provided hereinafter, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and subsistence of employees and maintenance of equipment incurred in connection with such request: Provided, that nothing herein contained shall prevent any assisting member state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such service to the receiving member state without charge or cost.

Each member state shall provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in case employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

For the purposes of this compact the term employee shall include any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws thereof.

The compact administrators shall formulate procedures for claims and reimbursement under the provisions of this article, in accordance with the laws of the member states.

Article VI.

Ratification of this compact shall not be construed to affect any existing statute so as to authorize or permit curtailment or diminution of the forest fire fighting forces, equipment, services or facilities of any member state.

Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying the same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control and extinguishment in such state.

Nothing in this compact shall be construed to affect any existing or future cooperative relationship or arrangement between any federal agency and a member state or states.

Article VII.

The compact administrators may request the United States Forest Service to act as a research and coordinating agency of the Southeastern Interstate Forest Fire Protection Compact in cooperation with the appropriate agencies in each state, and the United States Forest Service may accept responsibility for preparing and presenting to the compact administrators its recommendations with respect to the regional fire plan. Representatives of any federal agency engaged in forest fire prevention and control may attend meetings of the compact administrators.

Article VIII.

The provisions of Articles IV and V of this compact which relate to mutual aid in combating, controlling or preventing forest fires shall be operative as between any state party to this compact and any other state which is party to a regional forest fire protection compact in another region: Provided, that the legislature of such other state shall have given its assent to such mutual aid provisions of this compact.

Article IX.

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the Governor of such state, as the laws of such state shall provide, takes action to withdraw therefrom. Such action shall not be effective until six months after notice thereof has been sent by the chief executive of the state desiring to withdraw to the chief executives of all states then parties to the compact.

§ 2. When the Governor shall have executed said compact on behalf of the Commonwealth of Virginia and shall have caused a verified copy thereof to have been filed with the Secretary of the Commonwealth, and when said compact also shall have been ratified by one or more of the states named in § 1 of this act, then said compact shall become operative and effective as between this State

and such other state or states; and the Governor is hereby authorized and directed to take such action as may be necessary to complete the exchange of official documents between this State and any other state ratifying said compact.

§ 3. Pursuant to the provisions of Article III of said compact, the State Forester, under the general direction of the Secretary of Agriculture and Forestry, shall act as Compact Administrator for the Commonwealth of Virginia of the compact set forth in § 1 of this act.

§ 4. The State Forester, under the general direction of the Secretary of Agriculture and Forestry, as Compact Administrator, shall be vested with all powers provided for in said compact and all powers necessary and incidental to the carrying out of said compact in every particular.

§ 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

§ 6. This act shall become effective the first day of July 1956.

§ 10.1-1150. Middle Atlantic Interstate Forest Fire Protection Compact.

Chapter 6 of the 1966 Acts of Assembly authorizing the Governor to execute a compact to promote effective prevention and control of forest fires in the Middle Atlantic region of the United States, is incorporated in this Code by this reference.

§ 1. The Governor is hereby authorized to execute, on behalf of the Commonwealth of Virginia, a compact with any one or more of the states of Delaware, Maryland, New Jersey, Pennsylvania and West Virginia which compact shall be in substantially the following form:

MIDDLE ATLANTIC INTERSTATE FOREST FIRE PROTECTION COMPACT

ARTICLE I

The purpose of this compact is to promote effective prevention and control of forest fires in the Middle Atlantic region of the United States by the development of integrated forest fire plans, by the maintenance of adequate forest fire fighting services by the member states, and by providing for mutual aid in fighting forest fires among the compacting states of the region and with states which are party to other regional forest fire protection compacts or agreements.

ARTICLE II

This compact shall become operative immediately as to those states ratifying it whenever any two or more of the states of Delaware, Maryland, New Jersey, Pennsylvania, Virginia and West Virginia which are contiguous have ratified it and Congress has given consent thereto.

ARTICLE III

In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control shall act as compact administrator for that state and shall consult with like officials of the other member states and shall implement cooperation between such states in forest fire prevention and control.

The compact administrators of the member states shall organize to coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact.

The compact administrators shall formulate and, in accordance with need, from time to time, revise a regional forest fire plan for the member states.

It shall be the duty of each member state to formulate and put in effect a forest fire plan for that state and take such measures as may be necessary to integrate such forest fire plan with the regional forest fire plan formulated by the compact administrators.

ARTICLE IV

Whenever the state forest fire control agency of a member state requests aid from the state forest fire control agency of any other member state in combating, controlling or preventing forest fires, it shall be the duty of the state forest fire control agency of that state to render all possible aid to the requesting agency which is consonant with the maintenance of protection at home.

ARTICLE V

Whenever the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of such state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

All liability, except as otherwise provided hereinafter, that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

182 Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member
183 state receiving such aid for any loss or damage to, or expense incurred in the operation of any
184 equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries,
185 and maintenance of employees and equipment incurred in connection with such request: provided, that
186 nothing herein contained shall prevent any assisting member state from assuming such loss, damage,
187 expense or other cost or from loaning such equipment or from donating such services to the receiving
188 member state without charge or cost.

189 Each member state shall provide for the payment of compensation and death benefits to injured
190 employees and the representatives of deceased employees in case employees sustain injuries or are killed
191 while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if
192 the injury or death were sustained within such state.

193 For the purposes of this compact, the term "employee" shall include any volunteer or auxiliary
194 legally included within the forest fire fighting forces of the aiding state under the laws thereof.

195 The compact administrators shall formulate procedures for claims and reimbursement under the
196 provisions of this article, in accordance with the laws of the member states.

197 ARTICLE VI

198 Nothing in this compact shall be construed to authorize or permit any member state to curtail or
199 diminish its forest fire fighting forces, equipment, services or facilities, and it shall be the duty and
200 responsibility of each member state to maintain adequate forest fire fighting forces and equipment to
201 meet demands for forest fire protection within its borders in the same manner and to the same extent as
202 if this compact were not operative.

203 Nothing in this compact shall be construed to limit or restrict the powers of any state ratifying the
204 same to provide for the prevention, control and extinguishment of forest fires, or to prohibit the
205 enactment or enforcement of state laws, rules or regulations intended to aid in such prevention, control
206 and extinguishment in such state.

207 Nothing in this compact shall be construed to affect any existing or future cooperative relationship
208 or arrangement between the United States Forest Service and a member state or states.

209 ARTICLE VII

210 The compact administrators may request the United States Forest Service to act as the primary
211 research and coordinating agency of the Middle Atlantic Interstate Forest Fire Protection Compact in
212 cooperation with the appropriate agencies in each state, and the United States Forest Service may
213 accept the initial responsibility in preparing and presenting to the compact administrators its
214 recommendations with respect to the regional fire plan. Representatives of the United States Forest
215 Service may attend meetings of the compact administrators.

216 ARTICLE VIII

217 The provisions of Articles IV and V of this compact which relate to mutual aid in combating,
218 controlling or preventing forest fires shall be operative as between any state party to this compact and
219 any other state which is party to a regional forest fire protection compact in another region, provided
220 that the legislature of such other state shall have given its assent to such mutual aid provisions of this
221 compact.

222 ARTICLE IX

223 This compact shall continue in force and remain binding on each state ratifying it until the
224 legislature or the governor of such state takes action to withdraw therefrom. Such action shall not be
225 effective until six months after notice thereof has been sent by the chief executive of the state desiring to
226 withdraw to the chief executives of all states then parties to the compact.

227 § 2. The right to alter, amend, or repeal this Act is expressly reserved.

228 2. That § 3 of Chapter 63 of the Acts of Assembly of 1956 is repealed.