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SENATE BILL NO. 1121

Senate Amendments in [] — February 17, 1995

A BILL to amend the Code of Virginia by adding in Chapter 3.2 of Title 44 a section numbered 44-146.28:1, relating to the creation of the [~~Southern Regional~~] Emergency Management Assistance Compact.

Patron—Hawkins

Introduced at the request of Governor

Referred to the Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3.2 of Title 44 a section numbered 44-146.28:1 as follows:

§ 44-146.28:1. Compact enacted into law; terms.

The [~~Southern Regional~~] Emergency Management Assistance Compact is hereby enacted into law and entered into by the Commonwealth of Virginia with all other states legally joining therein, in the form substantially as follows:

[~~SOUTHERN REGIONAL~~] EMERGENCY MANAGEMENT ASSISTANCE COMPACT

ARTICLE I.

PURPOSE AND AUTHORITIES.

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

ARTICLE II.

GENERAL IMPLEMENTATION.

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III.

PARTY STATE RESPONSIBILITIES.

A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster,

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60 technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders,
61 insurgency, or enemy attack;

62 2. Review party states' individual emergency plans and develop a plan which will determine the
63 mechanism for the interstate management and provision of assistance concerning any potential
64 emergency;

65 3. Develop interstate procedures to fill any identified gaps and to resolve any identified
66 inconsistencies or overlaps in existing or developed plans;

67 4. Assist in warning communities adjacent to or crossing the state boundaries;

68 5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel,
69 search and rescue, and critical lifeline equipment, services, and resources, both human and material;

70 6. Inventory and set procedures for the interstate loan and delivery of human and material resources,
71 together with procedures for reimbursement or forgiveness; and

72 7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances
73 that restrict the implementation of the above responsibilities.

74 B. The authorized representative of a party state may request assistance of another party state by
75 contacting the authorized representative of that state. The provisions of this compact shall only apply to
76 requests for assistance made by and to authorized representatives. Requests may be verbal or in writing.
77 If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests
78 shall provide the following information:

79 1. A description of the emergency service function for which assistance is needed, including, but not
80 limited to, fire services, law enforcement, emergency medical, transportation, communications, public
81 works and engineering, building inspection, planning and information assistance, mass care, resource
82 support, health and medical services, and search and rescue;

83 2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable
84 estimate of the length of time they will be needed; and

85 3. The specific place and time for staging of the assisting party's response and a point of contact at
86 that location.

87 C. There shall be frequent consultation between state officials who have assigned emergency
88 management responsibilities and other appropriate representatives of the party states with affected
89 jurisdictions and the United States Government, with free exchange of information, plans, and resource
90 records relating to emergency capabilities.

91 ARTICLE IV. 92 LIMITATIONS.

93 Any party state requested to render mutual aid or conduct exercises and training for mutual aid
94 shall take such action as is necessary to provide and make available the resources covered by this
95 compact in accordance with the terms hereof; provided that it is understood that the state rendering aid
96 may withhold resources to the extent necessary to provide reasonable protection for such state.

97 Each party state shall afford to the emergency forces of any party state, while operating within its
98 state limits under the terms and conditions of this compact, the same powers, except that of arrest
99 unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces
100 of the state in which they are performing emergency services. Emergency forces will continue under the
101 command and control of their regular leaders, but the organizational units will come under the
102 operational control of the emergency services authorities of the state receiving assistance. These
103 conditions may be activated, as needed, only subsequent to a declaration of a state emergency or
104 disaster by the governor of the party state that is to receive assistance or upon commencement of
105 exercises or training for mutual aid and shall continue so long as the exercises or training for mutual
106 aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in
107 the receiving state, whichever is longer.

108 ARTICLE V. 109 LICENSES AND PERMITS.

110 Whenever any person holds a license, certificate, or other permit issued by any state party to the
111 compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when
112 such assistance is requested by the receiving party state, such person shall be deemed licensed, certified,
113 or permitted by the state requesting assistance to render aid involving such skill to meet a declared
114 emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state
115 may prescribe by executive order or otherwise.

116 ARTICLE VI. 117 LIABILITY.

118 Officers or employees of a party state rendering aid in another state pursuant to this compact shall
119 be considered agents of the requesting state for tort liability and immunity purposes. No party state or
120 its officers or employees rendering aid in another state pursuant to this compact shall be liable on
121 account of any act or omission in good faith 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. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII.

SUPPLEMENTARY AGREEMENTS.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII.

COMPENSATION.

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

ARTICLE IX.

REIMBURSEMENT.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

ARTICLE X.

EVACUATION.

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

ARTICLE XI.

IMPLEMENTATION.

A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

ARTICLE XII.

VALIDITY.

This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held

183 *invalid, the constitutionality of the remainder of this compact and the applicability thereof to other*
184 *persons and circumstances shall not be affected.*

185 *ARTICLE XIII.*

186 *ADDITIONAL PROVISIONS.*

187 *Nothing in this compact shall authorize or permit the use of military force by the National Guard of*
188 *a state at any place outside that state in any emergency for which the President is authorized by law to*
189 *call into federal service the militia, or for any purpose for which the use of the Army or the Air Force*
190 *would in the absence of express statutory authorization be prohibited under § 1385 of Title 18 of the*
191 *United States Code.*