

MAINE STATE LEGISLATURE

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 836, L.D. 2242, Bill, "An Act to Enter into the Emergency Management Assistance Compact"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 37-B MRSA c. 16 is enacted to read:

CHAPTER 16

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

§921. Purpose and authorities--Article I

The emergency management assistance compact, referred to in this chapter as the "compact," is made and entered into by and between the participating member states that enact this compact, referred to in this chapter as "party states." For the purposes of this agreement, the term "states" means 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 or states, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency or enemy attack.

This compact also provides for mutual cooperation in emergency related exercises, testing or other training activities

2 using equipment and personnel simulating performance of any
3 aspect of the giving and receiving of aid by party states or
4 subdivisions of party states during emergencies, with such
5 actions occurring outside actual declared emergency periods.
6 Mutual assistance in this compact may include the use of the
7 states' National Guard forces, either in accordance with the
8 National Guard Mutual Assistance Compact or by mutual agreement
9 between states.

10 **§922. General implementation--Article II**

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

22 The prompt, full and effective utilization of resources of
23 the participating states, including any resources on hand or
24 available from the Federal Government or any other source that
25 are essential to the safety, care and welfare of the people in
26 the event of any emergency or disaster declared by a party state,
27 must be the underlying principle on which all articles of this
28 compact are understood.

29 On behalf of the governor of each state participating in the
30 compact, the legally designated state official who is assigned
31 responsibility for emergency management is responsible for
32 formulation of the appropriate interstate mutual aid plans and
33 procedures necessary to implement this compact.

34 **§923. Party state responsibilities--Article III**

36 **1. Formulate plans and programs.** It is the responsibility
37 of each party state to formulate procedural plans and programs
38 for interstate cooperation in the performance of the
39 responsibilities listed in this section. In formulating such
40 plans, and in carrying them out, the party states, to the extent
41 practical, shall:

42 A. Review individual state hazards analyses and, to the
43 extent reasonably possible, determine all those potential
44 emergencies the party states might jointly suffer, whether
45 due to natural disaster, technological hazard, man-made
46 disaster, emergency aspects of resource shortages, civil
47 disorders, insurgency or enemy attack;

2 B. Review party states' individual emergency plans and
4 develop a plan that will determine the mechanism for the
6 interstate management and provision of assistance concerning
8 any potential emergency;

10 C. Develop interstate procedures to fill any identified
12 gaps and to resolve any identified inconsistencies or
14 overlaps in existing or developed plans;

16 D. Assist in warning communities adjacent to or crossing
18 state boundaries;

20 E. Protect and ensure uninterrupted delivery of services,
22 medicines, water, food, energy and fuel, search and rescue
24 and critical lifeline equipment, services and resources,
26 both human and material;

28 F. Inventory and set procedures for the interstate loan and
30 delivery of human and material resources, together with
32 procedures for reimbursement or forgiveness; and

34 G. Provide, to the extent authorized by law, for temporary
36 suspension of any statutes or ordinances that restrict the
38 implementation of the responsibilities described in this
40 subsection.

42 2. Request assistance. The authorized representative of a
44 party state may request assistance of another party state by
46 contacting the authorized representative of that state. The
48 provisions of this chapter only apply to requests for assistance
50 made by and to authorized representatives. Requests may be
 verbal or in writing. If verbal, the request must be confirmed
 in writing within 30 days of the verbal request. Requests must
 provide the following information:

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

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

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

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

§924. Limitations--Article IV

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms of this compact, except that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for that state. Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, duties, rights and privileges as are afforded forces of the state in which they are performing emergency services, except the power of arrest unless specifically authorized by the receiving state. Emergency forces continue under the command and control of their regular leaders, but the organizational units come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and continue as long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect or loaned resources remain in the receiving state or states, whichever is longer.

§925. Licenses and permits--Article V

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

§926. Liability--Article VI

2 Officers or employees of a party state rendering aid in
3 another state pursuant to this compact are considered agents of
4 the requesting state for tort liability and immunity purposes. A
5 party state or its officers or employees rendering aid in another
6 state pursuant to this compact are not liable on account of any
7 act or omission in good faith on the part of such forces while so
8 engaged or on account of the maintenance or use of any equipment
9 or supplies in connection therewith. Good faith in this article
10 does not include willful misconduct, gross negligence or
11 recklessness.

12 **§927. Supplementary agreements--Article VII**

14 Because it is probable that the pattern and detail of the
15 machinery for mutual aid among 2 or more states may differ from
16 that among the states that are party to this compact, this
17 compact contains elements of a broad base common to all states,
18 and nothing in this compact precludes any state from entering
19 into supplementary agreements with another state or affects any
20 other agreements already in force between states. Supplementary
21 agreements may include, but are not limited to, provisions for
22 evacuation and reception of injured and other persons and the
23 exchange of medical, fire, police, public utility,
24 reconnaissance, welfare, transportation and communications
25 personnel, equipment and supplies.

26 **§928. Compensation--Article VIII**

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

36 **§929. Reimbursement--Article IX**

38 Any party state rendering aid in another state pursuant to
39 this compact must be reimbursed by the party state receiving such
40 aid for any loss or damage to or expense incurred in the
41 operation of any equipment and the provision of any service in
42 answering a request for aid and for the costs incurred in
43 connection with those requests. An aiding party state may assume
44 in whole or in part any such loss, damage, expense or other cost
45 or may loan such equipment or donate such services to the
46 receiving party state without charge or cost. Any 2 or more
47 party states may enter into supplementary agreements establishing
48 a different allocation of costs among those states. Expenses
49 under section 928 are not reimbursable under this section.
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2 **§930. Evacuation--Article X**

4 Plans for the orderly evacuation and interstate reception of
6 portions of the civilian population as the result of any
8 emergency or disaster of sufficient proportions to so warrant
10 must be prepared and maintained between the party states and the
12 emergency management or emergency services directors of the
14 various jurisdictions where any type of incident requiring
16 evacuations might occur. These plans must be put into effect by
18 request of the state from which evacuees come and must include
20 the manner of transporting such evacuees, the number of evacuees
22 to be received in different areas, the manner in which food,
24 clothing, housing and medical care will be provided, the
26 registration of the evacuees, the providing of facilities for the
28 notification of relatives or friends, the forwarding of such
evacuees to other areas or the bringing in of additional
materials, supplies and all other relevant factors. The plans
must provide that the party state receiving evacuees and the
party state from which the evacuees come must 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 must 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.

30 **§931. Implementation--Article XI**

32 1. Enactment. This compact becomes operative immediately
34 upon its enactment into law by any 2 states. After it becomes
operative, this compact becomes effective as to any other state
upon its enactment by that state.

36 2. Withdraw from compact. Any party state may withdraw
38 from this compact by enacting a statute repealing the compact,
40 but the withdrawal does not take effect until 30 days after the
42 governor of the withdrawing state has given notice in writing of
44 such withdrawal to the governors of all other party states. The
action does not relieve the withdrawing state from obligations
assumed under this compact prior to the effective date of
withdrawal.

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

2 **§932. Validity--Article XII**

4 This chapter is construed to effectuate the purposes stated
6 in section 921. If any provision of this compact is declared
8 unconstitutional or the applicability of the compact to any
10 person or circumstances is held invalid, the constitutionality of
12 the remainder of this chapter and the applicability of the
14 chapter to other persons and circumstances is not affected.

16 **§933. Additional provisions--Article XIII**

18 This compact does not authorize or permit the use of
20 military force by the National Guard of a state at any place
22 outside that state in any emergency for which the President is
24 authorized by law to call the militia into federal service or for
26 any purpose for which the use of the Army or the Air Force would
28 in the absence of express statutory authorization be prohibited
30 under 18 United States Code, Section 1385.

32 **Sec. 2. Legislative intent.** This Act is the enactment of the
34 Emergency Management Assistance Compact approved by Joint
36 Resolution of Congress, Public Law 104-321. The text and
38 numbering of the compact have been changed to conform to Maine
40 statutory conventions. The changes are technical in nature and
42 it is the intent of the Legislature that this Act be interpreted
44 as substantively the same as the original compact.'

46 Further amend the bill by inserting at the end before the
48 summary the following:

FISCAL NOTE

34 This bill expands the State's ability to give and receive
36 assistance during declared emergencies or disasters beyond the
38 agreements of the Northeastern Interstate Emergency Management
40 Agreement, of which Maine is currently a member.

42 In the case of Maine providing assistance to other states,
44 this compact may increase emergency activities including the
46 number of Maine National Guard activations by the Department of
48 Defense, Veterans and Emergency Management. The additional costs
incurred by Maine to provide assistance to other states will be
reimbursed 100% by the receiving state.

In the event of an emergency or disaster in Maine, the bill
may expand the resources and assistance available to Maine from
other participating states. Maine must reimburse states that

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2 provide assistance at 100% of the costs incurred by assisting
3 states. The net effect to the State of this expansion of the
4 availability of resources during a declared emergency or disaster
5 can not be determined.

6 The additional costs associated with the planning and
7 implementation of the Emergency Management Assistance Compact can
8 be absorbed by the Department of Defense, Veterans and Emergency
9 Management utilizing existing budgeted resources.'

10

12

SUMMARY

14 The amendment restores the compact to its original form with
15 minor technical changes, and adds a fiscal note to the bill.

16