

1999 ASSEMBLY BILL 338

May 11, 1999 – Introduced by Representatives PLOUFF, MUSSER, BRANDEMUEHL, HUBER, KEDZIE, KRUG, LA FAVE, J. LEHMAN, MILLER, WAUKAU and SYKORA, cosponsored by Senators MOEN, CLAUSING, DARLING, MOORE, PANZER and ROESSLER. Referred to Committee on Government Operations.

1 **AN ACT to create** 166.30 of the statutes; **relating to:** interstate emergency
2 management assistance compact.

Analysis by the Legislative Reference Bureau

This bill creates an interstate emergency management assistance compact. Under the compact, states that are members of the compact provide mutual assistance to other member states in response to an emergency or disaster declared by the governor of the affected state. The disaster could be natural, a technological hazard, a man-made disaster, enemy attack or other civil emergency. Under the compact, member states cooperate in emergency-related exercises and training. Assistance provided under the compact includes the use of a state's national guard, fire services, law enforcement, medical, transportation and communications personnel and equipment. The compact requires each member state to formulate plans and programs for interstate cooperation in responding to a disaster.

The compact allows a member state to withhold requested resources if necessary to provide protection for its citizens. The emergency forces will have the same powers and responsibilities in the requesting state as they have in their own state, except that of arrest unless specifically authorized by the requesting state. Emergency force members are, under the compact, considered agents of the requesting state for tort liability and immunity purposes. The requesting state is responsible for the payment of benefits to injured members of the emergency force in the same manner as if the injury occurred in the member's own state. Under the compact, the requesting state shall reimburse the state rendering the assistance for any loss, damage or expense incurred in the provision of the emergency services,

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except that the aiding party may assume any or all of those costs. In addition, the compact allows member states to enter into agreements establishing the allocation of costs among those states. The compact provides for the withdrawal from the compact upon repeal of the compact and notification to the other member states.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 166.30 of the statutes is created to read:

2 **166.30 Emergency management assistance compact.** The following
3 compact, by and between the state of Wisconsin and all other states that enter into
4 the compact, is ratified and approved:

5 EMERGENCY MANAGEMENT

6 ASSISTANCE COMPACT

7 **(1) ARTICLE I - PURPOSE AND AUTHORITIES.** (a) This compact is made and entered
8 into by and between the participating member states that enact this compact, called
9 “party states” in this section. In this agreement, the term “states” means the several
10 states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S.
11 territorial possessions.

12 (b) The purpose of this compact is to provide for mutual assistance among the
13 party states in managing any emergency or disaster that is declared by the governor
14 of the affected state, whether arising from natural disaster, technological hazard,
15 man-made disaster, civil emergency aspects of resource shortages, community
16 disorders, insurgency, or enemy attack.

17 (c) This compact also provides for mutual cooperation in emergency-related
18 exercises, testing, or other training activities using equipment and personnel
19 simulating performance of any aspect of the giving and receiving of aid by party

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1 states or subdivisions of party states during emergencies if such activities occur
2 outside actual declared emergency periods. Mutual assistance in this compact may
3 include the use of the states' national guard forces, either in accordance with the
4 national guard mutual assistance compact or by mutual agreement among states.

5 **(2) ARTICLE II – GENERAL IMPLEMENTATION.** (a) Each party state recognizes that
6 many emergencies transcend political jurisdictional boundaries and that
7 intergovernmental coordination is essential in managing these and other
8 emergencies under this compact. Each party state recognizes that there will be
9 emergencies which require immediate access and present procedures to apply
10 outside resources to make a prompt and effective response to such an emergency.

11 (b) The prompt, full, and effective utilization of resources of the party states,
12 including any resources on hand or available from the federal government or any
13 other source, that are essential to the safety, care, and welfare of the people in the
14 event of any emergency or disaster declared by a party state, shall be the underlying
15 principle on which subs. (1) to (12) of this compact shall be understood.

16 (c) On behalf of the governor of each party state, the legally designated state
17 official who is assigned responsibility for emergency management will be responsible
18 for formulation of the appropriate interstate mutual aid plans and procedures
19 necessary to implement this compact.

20 **(3) ARTICLE III – PARTY STATE RESPONSIBILITIES.** (a) It shall be the
21 responsibility of each party state to formulate procedural plans and programs for
22 interstate cooperation in the performance of the responsibilities listed in this
23 subsection. In formulating such plans, and in carrying them out, the party states,
24 insofar as practical, shall do all of the following:

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1 1. Review individual state hazards analyses and, to the extent reasonably
2 possible, determine all those potential emergencies the party states might jointly
3 suffer, whether due to natural disaster, technological hazard, , man-made disaster,
4 emergency aspects of resource shortages, civil disorders, insurgency, or enemy
5 attack.

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

9 3. Develop interstate procedures to fill any identified gaps and to resolve any
10 identified inconsistencies or overlaps in existing or developed plans.

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

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

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

17 7. Provide, to the extent authorized by law, for temporary suspension of any
18 statutes or ordinances that restrict the implementation of the responsibilities listed
19 in subds. 1. to 6.

20 (b) The authorized representative of a party state may request assistance of
21 another party state by contacting the authorized representative of that state. The
22 provisions of this agreement shall only apply to requests for assistance made by and
23 to authorized representatives. Requests may be made by and to authorized
24 representatives. Requests may be verbal or in writing. If verbal, the request shall

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1 be confirmed in writing within thirty days of the verbal request. Requests shall
2 provide all of the following.

3 1. A description of the emergency service function for which assistance is
4 needed, such as fire services, law enforcement, emergency medical, transportation,
5 communications, public works and engineering, building inspection, planning and
6 information assistance, mass care, resource support, health and medical services,
7 and search and rescue.

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

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

12 (c) There shall be frequent consultation among state officials who have
13 assigned emergency management responsibilities and other appropriate
14 representatives of the party states with affected jurisdictions and the U.S.
15 government, with free exchange of information, plans, and resource records relating
16 to emergency capabilities.

17 **(4) ARTICLE IV – LIMITATIONS.** Any party state requested to render mutual aid
18 or conduct exercises and training for mutual aid shall take any action that is
19 necessary to provide and make available the resources covered by this compact in
20 accordance with the terms of this compact, provided that it is understood that the
21 state rendering aid may withhold resources to the extent necessary to provide
22 reasonable protection for that state. Each party state shall afford to the emergency
23 forces of any party state, while operating within its state limits under the terms and
24 conditions of this compact, the same powers, except that of arrest unless specifically
25 authorized by the receiving state, duties, rights, and privileges as are afforded forces

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1 of the state in which it is performing emergency services. Emergency forces will
2 continue under the command and control of their regular leaders, but the
3 organizational units will come under the operational control of the emergency
4 services authorities of the state receiving assistance. These conditions may be
5 activated, as needed, only subsequent to a declaration of a state of emergency or
6 disaster by the governor of the party state that is to receive assistance or
7 commencement of exercises or training for mutual aid and shall continue so long as
8 the exercises or training for mutual aid are in progress, the state of emergency or
9 disaster remains in effect, or loaned resources remain in the receiving state,
10 whichever is longest.

11 **(5) ARTICLE V – LICENSES AND PERMITS.** Whenever any person holds a license,
12 certificate, or other permit issued by any party state evidencing the meeting of
13 qualifications for professional, mechanical, or other skills, and when such assistance
14 is requested by the receiving party state, that person shall be deemed licensed,
15 certified, or permitted by the state requesting assistance to render aid involving such
16 skill to meet a declared emergency or disaster, subject to any limitations and
17 conditions as the governor of the requesting state may prescribe by executive order
18 or otherwise.

19 **(6) ARTICLE VI – LIABILITY.** Officers or employes of a party state rendering aid
20 in another party state shall be considered agents of the requesting state for tort
21 liability and immunity purposes, and no party state or its officers or employes
22 rendering aid in another party state shall be liable on account of any act or omission
23 performed in good faith on the part of those forces while so engaged or on account of
24 the maintenance or use of any equipment or supplies in connection with the

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1 rendering of aid. “Good faith” in this subsection shall not include wilful, wanton or
2 reckless misconduct.

3 **(7) ARTICLE VII – SUPPLEMENTARY AGREEMENTS.** Inasmuch as it is probable that
4 the pattern and detail of the machinery for mutual aid among two or more states may
5 differ from that among the party states, this compact contains elements of a broad
6 base common to all states, and nothing contained in this compact shall preclude any
7 state from entering into supplementary agreements with another state or affect any
8 other agreements already in force among states. Supplementary agreements may
9 include provisions for evacuation and reception of injured and other persons and the
10 exchange of medical, fire, police, public utility, reconnaissance, welfare,
11 transportation and communications personnel, and equipment and supplies.

12 **(8) ARTICLE VIII – COMPENSATION.** Each party state shall provide for the
13 payment of compensation and death benefits to injured members of the emergency
14 forces of that state and representatives of deceased members of those forces in case
15 those members sustain injuries or are killed while rendering aid under this compact,
16 in the same manner and on the same terms as if the injury or death were sustained
17 within their own state.

18 **(9) ARTICLE IX – REIMBURSEMENT.** Except as provided in this subsection, any
19 party state rendering aid in another state under this compact shall be reimbursed
20 by the party state receiving the aid for any loss or damage to or expense incurred in
21 the operation of any equipment and the provision of any service in answering a
22 request for aid and for the costs incurred in connection with the requests. Any aiding
23 party state may assume in whole or in part the loss, damage, expense, or other cost,
24 or may loan equipment or donate services to the receiving party state without charge
25 or cost. Any two or more party states may enter into supplementary agreements

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1 establishing an allocation of costs among those states. Subsection (8) expenses may
2 not be reimbursable under this subsection.

3 **(10) ARTICLE X – EVACUATION.** Plans for the orderly evacuation and interstate
4 reception of portions of the civilian population as the result of any emergency or
5 disaster of sufficient proportions to so warrant, shall be worked out and maintained
6 among the party states and the emergency management or services directors of the
7 various jurisdictions where any type of incident requiring evacuations might occur.
8 Evacuation plans shall be put into effect by request of the state from which evacuees
9 come and shall include the manner of transporting such evacuees, the number of
10 evacuees to be received in different areas, the manner in which food, clothing,
11 housing, and medical care will be provided, the registration of the evacuees, the
12 providing of facilities for the notification of relatives or friends, the forwarding of
13 such evacuees to other areas or the bringing in of additional materials, supplies, and
14 all other relevant factors. Evacuation plans shall provide that the party state
15 receiving evacuees and the party state from which the evacuees come shall mutually
16 agree as to reimbursement of out-of-pocket expenses incurred in receiving and
17 caring for the evacuees, for expenditures for transportation, food, clothing,
18 medicines and medical care, and for like items. Those expenditures shall be
19 reimbursed as agreed by the party state from which the evacuees come. After the
20 termination of the emergency or disaster, the party state from which the evacuees
21 came shall assume the responsibility for the ultimate support of repatriation of such
22 evacuees.

23 **(11) ARTICLE XI – IMPLEMENTATION.** (a) This compact shall become operative
24 immediately upon its enactment into law by any two states. After this compact

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1 becomes operative, this compact shall become effective as to any other state upon its
2 enactment by such state.

3 (b) Any party state may withdraw from this compact by enacting a statute
4 repealing the compact, but the withdrawal shall not take effect until thirty days after
5 the governor of the withdrawing state has given notice in writing of the withdrawal
6 to the governors of all other party states. Withdrawal from this compact shall not
7 relieve the withdrawing state from obligations assumed under the compact before
8 the effective date of withdrawal.

9 (c) Authenticated copies of this compact and of any supplementary agreements
10 as may be entered into shall, at the time of their approval, be deposited with each of
11 the party states and with the federal emergency management agency and other
12 appropriate agencies of the U.S. government.

13 **(12)** ARTICLE XII – ADDITIONAL PROVISIONS. Nothing in this compact shall
14 authorize or permit the use of military force by the national guard of a state at any
15 place outside that state in any emergency for which the president is authorized by
16 law to call into federal service the militia, or for any purpose for which the use of the
17 army or the air force would in the absence of express statutory authorization be
18 prohibited under 18 USC 1385.

19

(END)