

SECOND REGULAR SESSION

HOUSE BILL NO. 2324

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WILDBERGER (Sponsor),
ROORDA AND BRUNS (Co-sponsors).

Read 1st time March 3, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4800L.01I

AN ACT

To repeal section 44.090, RSMo, and to enact in lieu thereof one new section relating to mutual-aid agreements and the Missouri mutual aid system.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 44.090, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 44.090, to read as follows:

44.090. 1. The executive officer of any political subdivision **or public safety agency** may enter into mutual-aid arrangements or agreements with other public and private agencies within and without the state for reciprocal emergency aid. Such arrangements or agreements shall be consistent with the state disaster plan and program and the provisions of section 70.837, RSMo, and section 320.090, RSMo. In time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual-aid arrangements or agreements.

2. Any contracts that are agreed upon may provide for compensation from the parties and other terms that are agreeable to the parties and may be for an indefinite period as long as they include a sixty-day cancellation notice provision by either party. The contracts agreed upon may not be entered into for the purpose of reduction of staffing by either party.

3. At the time of significant emergency such as fire, earthquake, flood, tornado, hazardous material incident, terrorist incident, or other such manmade or natural emergency disaster **or public safety need** anywhere within the state or bordering states, the highest ranking

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 official of [a] **any** political subdivision [available] **or public safety agency or their designee**
16 may render aid to **or request aid from** any [requesting political] jurisdiction, **agency, or**
17 **organization** even without written agreement, as long as he or she is in accordance with the
18 policies and procedures set forth by the governing [board] **boards** of [that jurisdiction] **those**
19 **jurisdictions, agencies, or organizations. A public safety need, as used in this section, shall**
20 **include any event or incident necessitating mutual-aid assistance from another public**
21 **safety agency.**

22 4. When responding to mutual aid or emergency aid requests, political subdivisions **or**
23 **public safety agencies** shall be subject to all provisions of law as if it were providing service
24 within its own jurisdiction.

25 5. All political subdivisions **and public safety agencies** within the state are, upon
26 enactment of this legislation or execution of an agreement, automatically a part of the Missouri
27 statewide mutual aid system. A political subdivision within the state may elect not to participate
28 in the statewide mutual aid system upon enacting an appropriate resolution by its governing body
29 declaring that it elects not to participate in the statewide mutual aid system and by providing a
30 copy of the resolution to the [state fire marshal and state emergency management agency]
31 **director of the department of public safety or his or her designee.**

32 6. [Emergency response] **The Missouri mutual aid system shall be administered by**
33 **the department of public safety, which may authorize any organization to assist in the**
34 **administration of the mutual aid system. The department of public safety may promulgate**
35 **rules for this section. Any rule or portion of a rule, as that term is defined in section**
36 **536.010, RSMo, that is created under the authority delegated in this section shall become**
37 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
38 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
39 **nonseverable and if any of the powers vested with the general assembly under chapter 536,**
40 **RSMo, to review, to delay the effective date, or to disapprove and annul a rule are**
41 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
42 **proposed or adopted after August 28, 2008, shall be invalid and void.**

43 7. **For the purpose of this section, public safety agencies** shall include, but shall not
44 be limited to, fire service organizations, law enforcement agencies, emergency medical service
45 organizations, public health and medical personnel, emergency management officials,
46 infrastructure departments, public works agencies, and those other agencies, organizations, [and]
47 departments, **and specialized emergency response teams** that have personnel with special skills
48 or training that are needed to provide services during an emergency, **public safety need,** or
49 disaster, **declared or undeclared.**

50 [7.] **8.** It shall be the responsibility of each political subdivision **and public safety**
51 **agency** to adopt and put into practice the National Incident Management System promulgated
52 by the United States Department of Homeland Security.

53 [8.] **9.** In the event of a disaster **or other public safety need** that is beyond the capability
54 of local political subdivisions, the local governing authority **or public safety agency having**
55 **jurisdiction** may request assistance under this section.

56 [9.] **10.** Any entity or individual that holds a license, certificate, or other permit issued
57 by a participating political subdivision, **public safety agency**, or state shall be deemed licensed,
58 certified, or permitted in the requesting political subdivision **or public safety agency's**
59 **jurisdiction** for the duration of the [declared] emergency or authorized drill.

60 [10.] **11.** Reimbursement for services rendered under this section shall be in accordance
61 with **any local**, state and federal guidelines. Any political subdivision **or public safety agency**
62 providing assistance shall receive appropriate reimbursement according to those guidelines.

63 [11.] **12.** Applicable benefits normally available to personnel while performing duties
64 for their jurisdiction are also available to such persons when an injury or death occurs when
65 rendering assistance to another political subdivision **or public safety agency** under this section.
66 Responders shall be eligible for the same state and federal benefits that may be available to them
67 for line-of-duty deaths **or injuries**, if such services are otherwise provided for within their
68 jurisdiction.

69 [12.] **13.** All activities performed under this section **during any emergency, disaster,**
70 **or public safety need that is not declared by the governor as an emergency** are deemed to
71 be governmental functions. For the purposes of liability, all [participating] **members of any**
72 political [subdivisions] **subdivision or public safety agency** responding under operational
73 control of the requesting political subdivision **or a public safety agency** are deemed employees
74 of such [participating] **responding political subdivision or public safety agency and are**
75 **subject to the liability and workers' compensation provisions provided to them as**
76 **employees of their respective political subdivision or public safety agency.**

77 **14.** During an emergency declared by the governor, responders of any public safety
78 **agency or political subdivision deployed by the governor or any state agency shall not be**
79 **liable for any civil damages or administrative sanctions for any failure, in the delivery of**
80 **services necessitated by the emergency during deployment, to exercise the skill and**
81 **learning of an ordinarily careful public safety professional in similar circumstances, but**
82 **shall be liable for damages due to willful and wanton acts or omissions in rendering such**
83 **services.**

✓