

# HOUSE BILL No. 4729

May 14, 2013, Introduced by Reps. Zorn, Franz, Lori, Graves, Price, Rogers, Heise, Kesto, Crawford, Poleski, Irwin, Lane, Haugh, Schmidt, Lauwers, Pagel, Jacobsen, Olumba and Oakes and referred to the Committee on Local Government.

A bill to create an intrastate emergency management assistance agreement; to provide for the coordination of assistance during times of emergencies; and to specify the duties of certain state and local officials and agencies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "intrastate emergency management assistance agreement".

3           Sec. 2. As used in this act:

4           (a) "Authorized representative" means the chief executive of  
5 a participating government, or his or her designee, who has written  
6 authorization to request, offer, or provide assistance under the  
7 emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

8           (b) "Department" means the department of the state police.

1 (c) "Director" means the director of the department or his or  
2 her designee.

3 (d) "Disaster" means an occurrence or threat of widespread or  
4 severe damage, injury, or loss of life or property resulting from a  
5 natural or human-made cause, including, but not limited to, fire,  
6 flood, snowstorm, ice storm, tornado, windstorm, wave action, oil  
7 spill, water contamination, utility failure, hazardous peacetime  
8 radiological incident, major transportation accident, hazardous  
9 materials incident, epidemic, air contamination, blight, drought,  
10 infestation, explosion, or hostile military action or paramilitary  
11 action, or similar occurrences resulting from terrorist activities,  
12 riots, or civil disorders.

13 (e) "Emergency" means any occurrence that requires the  
14 assistance of emergency responders to save lives, protect property  
15 and the public health and safety, or lessen or avert the threat of  
16 a disaster.

17 (f) "Emergency management coordinator" means that term as  
18 defined in section 2 of the emergency management act, 1976 PA 390,  
19 MCL 30.402.

20 (g) "Emergency management homeland security division" means  
21 the department's emergency management homeland security division.

22 (h) "Emergency responder" means an individual with special  
23 skills, qualifications, training, knowledge, or experience in the  
24 public or private sector, including all employees and volunteers of  
25 any participating government, that would be beneficial to a  
26 participating government in response to a local state of emergency  
27 declared under the emergency management act, 1976 PA 390, MCL

1 30.401 to 30.421, serious threats to public safety, or authorized  
2 drill or exercises; and who is requested or is authorized to  
3 respond to a requesting participating government.

4 (i) "Incident command system" means a standardized on-scene  
5 emergency management construct specifically designed to provide for  
6 the adoption of an integrated organizational structure that  
7 reflects the complexity and demands of single or multiple incidents  
8 without being hindered by jurisdictional boundaries. The incident  
9 command system is the combination of facilities, equipment,  
10 personnel, procedures, and communications operating within a common  
11 organizational structure that is designed to aid in the management  
12 of resources during incidents.

13 (j) "Participating government" means each political  
14 subdivision of this state whose legislative body has not adopted a  
15 resolution opting out of this act.

16 (k) "Period of assistance" means the period of time beginning  
17 with the departure of any person or equipment of the responding  
18 participating government from any point for the purpose of  
19 traveling to provide assistance to the requesting participating  
20 government, and ending upon the return of all the responding  
21 participating government's personnel and equipment after providing  
22 the assistance requested, to the person's residence or regular  
23 place of work, whichever occurs first, or the equipment's place of  
24 storage. Period of assistance does not include any portion of the  
25 trip during which the personnel of the responding participating  
26 government are engaged in activities not reasonably necessary for  
27 their safe travel to or from the jurisdiction of the requesting

1 participating government.

2 (l) "Political subdivision" means that term as defined in  
3 section 2 of the emergency management act, 1976 PA 390, MCL 30.402.

4 (m) "Requesting participating government" means any  
5 participating government requesting and receiving emergency  
6 assistance under this act.

7 (n) "Responding participating government" means any  
8 participating government responding to a request for assistance  
9 under this act.

10 (o) "Serious threats to public health and safety" means a  
11 threat or incident of sufficient magnitude that the necessary  
12 public safety response threatens to overwhelm local resources and  
13 requires mutual aid or other assistance, but for which no local,  
14 state or federal declaration of emergency or disaster is  
15 forthcoming or likely to result.

16 Sec. 3. An intrastate emergency management assistance  
17 agreement is created between the participating governments of this  
18 state. The purpose of the agreement is to create a system of  
19 intrastate mutual aid between participating governments. Each  
20 participating government recognizes that emergencies transcend  
21 political jurisdictional boundaries and that intergovernmental  
22 coordination is essential for the protection of lives and property  
23 and for best use of available assets both public and private. The  
24 agreement provides for mutual assistance among the participating  
25 governments in the prevention of, mitigation, response to, and  
26 recovery from any emergency or disaster. This act does not preclude  
27 participating governments from entering into supplementary mutual

1 aid agreements with another political subdivision and does not  
2 affect or in any way supersede any existing mutual aid agreement.

3       Sec. 4. Unless it has declined to participate, each political  
4 subdivision of this state is a participating government under this  
5 act. A participating government may decline to participate in the  
6 agreement created under this act by adopting a resolution by its  
7 legislative body declining to participate. A political subdivision  
8 is considered to have declined participation when the resolution is  
9 filed with the director of the department. If the department  
10 receives a resolution under this subsection declining  
11 participation, the department shall promptly notify the appropriate  
12 emergency management coordinator of that fact.

13       Sec. 5. A participating government may request the assistance  
14 of other participating governments in preventing, mitigating,  
15 responding to, or recovering from disasters that result in locally-  
16 declared emergencies, serious threats to public health and safety,  
17 or in concert with authorized drills or exercises as provided in  
18 this act. Requests for assistance shall be made through the  
19 authorized representative of a participating government or his or  
20 her designee in a manner that is consistent with the emergency  
21 management act, 1976 PA 390, MCL 30.401 to 30.421.

22       Sec. 6. A participating government's obligation to provide  
23 assistance under this act is subject to the following requirements:

24       (a) A requesting participating government must have exhausted  
25 all of its local resources, anticipate a serious threat to public  
26 health and safety, or be a participant in authorized drills and  
27 exercises.

1 (b) A responding participating government may withhold  
2 resources to the extent necessary to provide reasonable protection  
3 and services for its own jurisdiction.

4 (c) A responding participating government may withdraw its  
5 resources at any time, provided notice is given to the requesting  
6 participating government before withdrawal.

7 (d) Emergency response personnel of a responding  
8 participating government shall continue under the command and  
9 control of the responding jurisdiction to include medical  
10 protocols, standard operating procedures, and other protocols, but  
11 shall be under the operational control of the appropriate officials  
12 within the incident management system of the requesting  
13 participating government.

14 (e) Assets and equipment of a responding participating  
15 government shall continue to be under the command and control of  
16 the responding participating government but shall be under the  
17 operational control of the appropriate officials within the  
18 incident command system of the requesting participating government.

19 Sec. 7. (1) A requesting participating government shall  
20 reimburse the responding participating government for the entire  
21 period of assistance. A participating government providing  
22 assistance may donate assets of any kind to a requesting  
23 participating government. The rate for reimbursement under this  
24 subsection shall be as follows:

25 (a) If the requesting participating government and the  
26 responding participating government have agreed upon a rate, at  
27 that rate.

1 (b) If the requesting participating government and the  
2 responding participating government have not agreed upon a rate, at  
3 the rate established under the fee schedule of the federal  
4 emergency management agency (FEMA) that is in place at the time the  
5 assistance is provided, or the actual cost of the assistance  
6 provided, whichever is less.

7 (2) If a dispute arises between parties to the system  
8 regarding reimbursement under subsection (1), the involved parties  
9 shall make every effort to resolve the dispute within 30 days after  
10 being provided with written notice of the dispute by the party  
11 asserting noncompliance. If the dispute is not resolved within 90  
12 days after the notice is received, either party may request the  
13 dispute be resolved through arbitration. Any arbitration under this  
14 section shall be conducted under the commercial arbitration rules  
15 of the American arbitration association.

16 (3) Nothing in this act precludes the chief executive  
17 official of a participating government from requesting, through the  
18 emergency management homeland security division, state or federal  
19 assistance, or the issuance of a gubernatorial or presidential  
20 declaration of emergency or disaster, under the emergency  
21 management act, 1976 PA 390, MCL 30.401 to 30.421, and the federal  
22 Robert T. Stafford disaster relief and emergency assistance act,  
23 Public Law 100-707.

24 Sec. 8. Personnel of a participating government who sustain  
25 injury or death in the course of, and arising out of, their  
26 employment are entitled to all applicable benefits normally  
27 available to personnel while performing their duties for their

1 employer. Emergency response personnel shall receive any additional  
2 state and federal benefits that may be available to them for line  
3 of duty deaths.

4       Sec. 9. Each participating government is responsible for its  
5 own acts and the acts of its employees, agents, volunteers, and  
6 subcontractors.

7       Sec. 10. In the event of a conflict between the requirements  
8 of this act and the requirements of the emergency management act,  
9 1976 PA 390, MCL 30.401 to 30.421, the requirements of the  
10 emergency management act, 1976 PA 390, MCL 30.401 to 30.421, shall  
11 prevail.