

Part 9

Intrastate Mutual Aid System

Part Compiler's Comments:

Effective Date: Section 19, Ch. 354, L. 2005, provided: "[This act] is effective on passage and approval." Approved April 21, 2005.

10-3-901. Short title. This part may be cited as the "Statewide Mutual Aid System Act".

History: En. Sec. 1, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(1), Ch. 354, L. 2005, provided that this section applies on [the effective date of this act]. Effective April 21, 2005.

10-3-902. Policy -- purpose. (1) It is the policy of the state that:

(a) available resources should be made available whenever possible and practical to minimize the negative impacts of disasters and emergencies, regardless of the political jurisdiction in this state within which the disaster or emergency occurs and regardless of the political jurisdictions from which a request for assistance arises or from which or to which the resources are made available;

(b) agreements, either formal or informal, written or oral, between or among political subdivisions of this state, that exist or are entered into for the purpose of providing mutual aid in the event of a disaster or emergency should remain options for political subdivisions and should not be infringed upon or in any way affected by the provisions of this part; and

(c) in particular, the provisions of this part do not affect any mutual aid agreement, either formal or informal, written or oral, that is made or that may be made pursuant to Title 7, chapter 33, 10-3-209, or 10-3-703 or a request for assistance or aid or assistance or aid provided or received pursuant to Title 7, chapter 33, 10-3-209, or 10-3-703.

(2) It is the purpose of this part to:

(a) establish an effective and efficient mutual aid system in which a political jurisdiction can choose to participate that can operate separate from yet integrated with other freestanding mutual aid systems or agreements;

(b) provide to political jurisdictions in the state another option for establishing mutual aid agreements and for requesting, providing, and receiving mutual aid; and

(c) allow political jurisdictions maximum flexibility to protect life and property through mutual aid agreements.

History: En. Sec. 2, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(1), Ch. 354, L. 2005, provided that this section applies on [the effective date of this act]. Effective April 21, 2005.

10-3-903. Statewide mutual aid system -- definitions. As used in this part, the following definitions apply:

(1) "Committee" means the Montana intrastate mutual aid committee created in 10-3-904.

(2) "Disaster" has the meaning provided in 10-3-103.

(3) "Emergency" has the meaning provided in 10-3-103.

(4) "Member jurisdiction" means *the state of Montana* or a political subdivision or a federally recognized Indian tribe that participates in the system.

(5) "System" means the Montana intrastate mutual aid system provided for in 10-3-906.

History: En. Sec. 3, Ch. 354, L. 2005. *Effective March 22, 2007*

Compiler's Comments:

Applicability: Section 20(1), Ch. 354, L. 2005, provided that this section applies on [the effective date of this act]. Effective April 21, 2005.

10-3-904. Montana intrastate mutual aid committee -- members -- officers -- meetings -- compensation. (1) There is a Montana intrastate mutual aid committee.

(2) All members of the committee must be appointed by and serve at the pleasure of the state emergency response commission established in 10-3-1204.

(3) The committee shall elect from among its members a presiding officer, a vice presiding officer, and any other officers considered necessary or advisable by the committee.

(4) The committee shall meet at least annually and may meet at the call of the presiding officer or as otherwise considered necessary or advisable by two-thirds of the members.

(5) Members of the committee are not entitled to compensation or to reimbursement for expenses incurred for serving on or participating in the activities of the committee. This subsection does not preclude a member jurisdiction from compensating or reimbursing the expenses of a committee member.

History: En. Sec. 4, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(1), Ch. 354, L. 2005, provided that this section applies on [the effective date of this act]. Effective April 21, 2005.

Transition: Section 21, Ch. 354, L. 2005, provided: "Because [section 4] [10-3-904], creating the Montana intrastate mutual aid committee, is effective and applicable on passage and approval [approved April 21, 2005], the state emergency response commission established in 10-3-1204 will not have had the opportunity to appoint the members of the committee. Therefore, the state emergency response commission shall appoint the members of the Montana intrastate mutual aid committee before August 1, 2005."

10-3-905. Montana intrastate mutual aid committee -- duties. The committee shall:

(1) review the progress and status of intrastate mutual aid;

(2) assist in developing methods to track and evaluate activation of the system;

(3) examine issues facing member jurisdictions in the implementation of intrastate mutual aid;

(4) develop, adopt, and disseminate comprehensive guidelines and procedures that address the following:

(a) projected or anticipated costs of establishing and maintaining the system;

- (b) checklists for requesting and providing intrastate mutual aid assistance;
- (c) recordkeeping for all member jurisdictions; and
- (d) procedures for reimbursing the actual and legitimate expenses of a member jurisdiction that responds to a request for aid or assistance through the system; and
- (5) adopt any other guidelines or procedures considered necessary by the committee to implement an effective and efficient system.

History: En. Sec. 5, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(1), Ch. 354, L. 2005, provided that this section applies on [the effective date of this act]. Effective April 21, 2005.

10-3-906. Intrastate mutual aid system -- initial participation -- withdrawing. (1) There is a Montana intrastate mutual aid system. The system is composed of and may be described as:

- (a) the member jurisdictions and any action taken by a member jurisdiction pursuant to this part;
 - (b) the committee and any action taken by the committee pursuant to this part;
 - (c) the guidelines and procedures described in 10-3-905(4);
 - (d) any action taken with respect to requesting assistance for an emergency or disaster under this part; and
 - (e) any action taken with respect to responding to a request for assistance for an emergency or disaster under this part.
- (2) Except as provided in subsection (4), every political subdivision of the state is part of the system.
- (3) A federally recognized Indian tribe that is located within the boundaries of the state may be a member jurisdiction upon:
- (a) adoption by the tribal government of a resolution declaring the tribe's desire to be a member jurisdiction; and
 - (b) receipt by the division, as defined in 10-3-103, of a copy of the resolution.
- (4) A member jurisdiction may elect not to participate or to withdraw from the system upon:
- (a) adopting a resolution or ordinance declaring that the member jurisdiction elects not to participate in the system; and
 - (b) receipt by the division, as defined in 10-3-103, of a copy of the resolution.
- (5) This section does not preclude a member jurisdiction from entering into any other agreement with another political subdivision and does not affect any other agreement to which a political subdivision is a party or may become a party.

History: En. Sec. 6, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(1), Ch. 354, L. 2005, provided that this section applies on [the effective date of this act]. Effective April 21, 2005.

10-3-907. Intrastate mutual aid system -- request for assistance. (1) A member jurisdiction may request assistance from another member jurisdiction:

- (a) to prevent, mitigate, respond to, or recover from an emergency or disaster; or
- (b) in concert with drills or exercises between member jurisdictions.

(2) A request for assistance must be made by or through the presiding officer of the governing body of the member jurisdiction or the chief executive officer or the chief executive officer's designee of a member jurisdiction. A request may be verbal or in writing and is not required to go directly to the division, as defined in 10-3-103. If a request is verbal, the request must be confirmed in writing within 30 days of the date on which the request was made.

History: En. Sec. 7, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(2), Ch. 354, L. 2005, provided that this section applies on October 1, 2005.

10-3-908. Intrastate mutual aid system -- limitation on assistance -- command and control. A member jurisdiction's obligation to provide assistance to prevent, respond to, or recover from an emergency or disaster or in drills or exercises is subject to the following conditions:

(1) A member jurisdiction that responds to a request for assistance from a requesting member jurisdiction may withhold resources to the extent necessary to provide reasonable protection and services for the responding jurisdiction.

(2) The personnel of a responding member jurisdiction are under:

(a) the command control of the responding jurisdiction for purposes that include medical protocols, standard operating procedures, and other protocols; and

(b) the operational control of the appropriate officials of the member jurisdiction receiving the assistance.

(3) The assets and equipment of a responding member jurisdiction are under:

(a) the command control of the responding jurisdiction; and

(b) the operational control of the appropriate officials of the member jurisdiction receiving the assistance.

History: En. Sec. 8, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(2), Ch. 354, L. 2005, provided that this section applies on October 1, 2005.

10-3-909. Intrastate mutual aid system -- portability of bona fides. If a person or entity holds a license, certificate, permit, or similar documentation that evidences the person's or entity's qualifications in a professional, mechanical, or other skill and the assistance of the person or entity is requested by a member jurisdiction, the person or entity is:

(1) considered to be licensed, certified, permitted, or otherwise documented in the member jurisdiction that requests assistance for the duration of the emergency or disaster or of the drills or exercises; and

(2) subject to any legal limitations or conditions prescribed by the governing body or chief executive of the member jurisdiction that receives the assistance.

History: En. Sec. 9, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(2), Ch. 354, L. 2005, provided that this section applies on October 1, 2005.

10-3-910. Intrastate mutual aid system -- reimbursement -- dispute resolution. (1) A requesting member jurisdiction shall reimburse each member jurisdiction that responds to a request for aid or assistance and renders aid under the system unless the member jurisdiction rendering aid donates all or a portion of the cost of the assistance to the requesting member jurisdiction.

(2) A request for reimbursement must be in accordance with procedures developed by the committee.

(3) If a dispute regarding reimbursement arises between a party that requested assistance under the system and a party that provided assistance under the system, the involved parties shall make every effort to resolve the dispute within 30 days of written notice of the dispute given by the party asserting noncompliance to the other party.

(4) (a) If the dispute is not resolved within 90 days from the date of the notice, either party may request that the dispute be resolved through arbitration.

(b) All arbitration occurring under this section must be conducted pursuant to the commercial arbitration rules and mediation procedures of the American arbitration association as the rules and procedures exist on the date of notification described in subsection (3).

History: En. Sec. 10, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(2), Ch. 354, L. 2005, provided that this section applies on October 1, 2005.

10-3-911. Intrastate mutual aid system -- workers' compensation coverage. (1) If a person is an employee of a member jurisdiction that responds to a request for assistance from a member jurisdiction and the person sustains injury in the course of providing the requested assistance, the person is entitled to all applicable benefits, including workers' compensation benefits, normally available to the person as an employee of the member jurisdiction that employs the person.

(2) If the person's injury results in the person's death, the person's estate must receive any additional state and federal benefits that may be available for death in the line of duty.

History: En. Sec. 11, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(2), Ch. 354, L. 2005, provided that this section applies on October 1, 2005.

10-3-912. Liability -- immunity. (1) All activities performed pursuant to a request for assistance as provided for in this part are considered to be governmental functions.

(2) Except as provided in 10-3-911, a person responding to a request for assistance who is under the operational control of the requesting member jurisdiction, as provided for in 10-3-908, is considered for the purposes of liability to be an employee of the requesting member jurisdiction.

(3) Except in the case of willful misconduct, gross negligence, or bad faith, the member jurisdiction or an employee of the member jurisdiction is immune from liability for the death of or injury to any person or for damage to property if the member

jurisdiction or the employee of the member jurisdiction is complying with or attempting to comply with the system.

History: En. Sec. 12, Ch. 354, L. 2005.

Compiler's Comments:

Applicability: Section 20(2), Ch. 354, L. 2005, provided that this section applies on October 1, 2005.

Part 10. Emergency Management Assistance Compact