

SENATE BILL NO. 208

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY SENATOR PASKVAN

Introduced: 2/21/12

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing an Alaska intrastate mutual aid system and relating to the duties of
2 the Alaska division of homeland security and emergency management and the duties of
3 the Alaska State Emergency Response Commission."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 26.23.040(b) is amended to read:

6 (b) The Alaska division of homeland security and emergency management
7 shall play an integral part in the development and revision of local and
8 interjurisdictional disaster plans prepared under AS 26.23.060 **and AS 26.23.500 -**
9 **26.23.549.** To this end, it may employ or otherwise secure the services of professional
10 and technical personnel capable of providing expert assistance to political
11 subdivisions, their disaster agencies, and representatives of interjurisdictional disaster
12 planning and service areas. These personnel shall consult with political subdivisions
13 and agencies on a regular basis and shall make field examinations of the areas,
14 circumstances, and conditions to which particular local and interjurisdictional disaster

1 plans are intended to apply and may suggest or require revisions.

2 * **Sec. 2.** AS 26.23.040(e) is amended to read:

3 (e) The Alaska division of homeland security and emergency management
4 shall

5 (1) determine requirements of the state and its political subdivisions
6 for food, clothing, and other necessities in the event of a disaster emergency;

7 (2) procure and pre-position supplies, medicines, materials, and
8 equipment;

9 (3) adopt standards and requirements for local and interjurisdictional
10 disaster plans;

11 (4) periodically review local and interjurisdictional disaster plans;

12 (5) establish and operate, or assist political subdivisions, their disaster
13 agencies, and representatives of interjurisdictional disaster planning and service areas
14 to establish and operate, training programs;

15 (6) plan and make arrangements for the availability and use of any
16 private facilities, services, and property and, if necessary and if in fact used, provide
17 for payment for use under terms and conditions agreed upon by the parties;

18 (7) establish a register of persons with types of training and skills
19 important in disaster prevention, preparedness, response, and recovery;

20 (8) prepare, for issuance by the governor, orders, proclamations, and
21 regulations as necessary or appropriate in coping with disasters;

22 (9) cooperate with the federal government and any public or private
23 agency or entity in achieving any purpose of this chapter and in implementing
24 programs for disaster prevention, preparedness, response, and recovery;

25 (10) develop and carry out procedures and policies to effectively
26 employ disaster relief funds made available by the governor's authority or by special
27 legislative action; these procedures shall include application and documentation by
28 disaster victims or applicants, review, verification and funding approval, and
29 processing of appeals;

30 (11) do other things necessary or proper for the implementation of this
31 chapter;

1 (12) coordinate the operation of the Alaska intrastate mutual aid
 2 system among participating political subdivisions of the state and develop, in
 3 coordination with the political subdivisions and appropriate state and federal
 4 agencies, comprehensive guidelines and procedures for the Alaska intrastate
 5 mutual aid system, including record keeping and reimbursement procedures and
 6 forms for use by political subdivisions requesting and providing assistance;

7 (13) to the extent that money is available from an appropriation for the
 8 purposes of this paragraph,

9 (A) award grants for the purpose of forming local emergency
 10 planning committees under AS 26.23.073;

11 (B) in order to comply with 49 U.S.C. 5116(a)(2)(B), make
 12 funds available to local emergency planning committees for developing and
 13 maintaining emergency plans under AS 26.23.073 and 26.23.075;

14 (C) make funds available to local emergency planning
 15 committees to implement 42 U.S.C. 11022(e) and 42 U.S.C. 11044; and

16 (D) award grants for training local emergency planning
 17 committees and for training and equipping the emergency response
 18 organizations identified in the local plans that execute the plans developed by
 19 the committees under AS 26.23.073 and 26.23.075.

20 * **Sec. 3.** AS 26.23.071(e) is amended to read:

21 (e) The commission shall

22 (1) serve as the state emergency response commission required under
 23 42 U.S.C. 11001 - 11005;

24 (2) facilitate the preparation and implementation of all emergency
 25 plans prepared by state agencies under other authorities; the statewide,
 26 interjurisdictional, and local plans prepared under this chapter, including the Alaska
 27 intrastate mutual aid system; and the state and regional plans prepared under
 28 AS 46.04.200 - 46.04.210;

29 (3) review the plans described in (2) of this subsection according to the
 30 criteria established in AS 26.23.077;

31 (4) designate, and revise as necessary, the boundaries of emergency

1 planning districts under AS 26.23.073;

2 (5) establish a local emergency planning committee under
3 AS 26.23.073(d) for each emergency planning district;

4 (6) supervise and coordinate the activities of local emergency planning
5 committees;

6 (7) establish procedures for receiving and processing requests from the
7 public for information under 42 U.S.C. 11044, including tier II information under 42
8 U.S.C. 11022; procedures established under this paragraph shall designate the
9 Department of Environmental Conservation as the state agency to receive and process
10 these requests on behalf of the commission;

11 (8) review reports about responses to disaster emergencies and make
12 recommendations to the appropriate parties involved in the response concerning
13 improved prevention and preparedness;

14 (9) perform other coordinating, advisory, or planning tasks related to
15 emergency planning and preparedness for all types of hazards, community right-to-
16 know reporting, toxic chemical release reporting, or management of hazardous
17 substances;

18 (10) recommend procedures to integrate, as appropriate, hazardous
19 substance response planning under 42 U.S.C. 11001 - 11005, federal contingency
20 planning under 33 U.S.C. 1321 and other federal laws applicable to hazardous
21 substance discharges, and state, regional, and local planning under this chapter and
22 AS 46.04.200 - 46.04.210;

23 (11) to the extent consistent with the constitution and law of the state,
24 perform all other functions prescribed for state emergency response commissions
25 under 42 U.S.C. 11001 - 11005; and

26 (12) adopt regulations necessary to carry out the purposes of
27 AS 26.23.071 - 26.23.077, AS 26.23.500 - 26.23.549, and 42 U.S.C. 11001 - 11005.

28 * **Sec. 4.** AS 26.23.077(a) is amended to read:

29 (a) The commission shall review and make recommendations about local,
30 interjurisdictional, regional, and state emergency plans, including the Alaska
31 intrastate mutual aid system established in AS 26.23.500, other plans prepared

1 under this chapter and AS 46.04.200 - 46.04.210, and all emergency plans prepared by
2 state agencies under other authorities.

3 * **Sec. 5.** AS 26.23 is amended by adding new sections to read:

4 **Article 3A. Alaska Intrastate Mutual Aid System.**

5 **Sec. 26.23.500. Alaska intrastate mutual aid system established.** (a) The
6 Alaska intrastate mutual aid system is established to provide for mutual assistance
7 among participating political subdivisions of the state in preparing for and responding
8 to a disaster. Except as provided in (b) of this section, all political subdivisions of the
9 state shall participate in the system.

10 (b) A political subdivision may withdraw from participation in the Alaska
11 intrastate mutual aid system established in (a) of this section. To withdraw, the
12 governing board of a political subdivision shall adopt a resolution declaring that the
13 political subdivision elects not to participate in the system and provide a copy of the
14 resolution to the Alaska division of homeland security and emergency management. A
15 political subdivision that withdraws may later elect to participate by adopting a
16 resolution declaring the election of the political subdivision to participate and by
17 delivering a copy of the resolution to the Alaska division of homeland security and
18 emergency management.

19 (c) The provisions in AS 26.23.500 - 26.23.549 may not be construed to affect
20 other mutual aid systems or agreements authorized elsewhere by law, do not prohibit a
21 participating political subdivision from entering into other agreements with another
22 political subdivision, including agreements entered into under AS 26.23.070 -
23 26.23.077, 26.23.180, AS 46.04.200, or 46.04.210, and do not affect any other
24 agreement to which a political subdivision may be a party now or in the future.

25 (d) The provisions of AS 26.23.500 - 26.23.549 may not be interpreted to
26 preclude the eligibility of a political subdivision for state or federal disaster funding or
27 disaster readiness funding.

28 **Sec. 26.23.510. Requests for assistance from another political subdivision.**

29 (a) Except as otherwise provided in this section, a political subdivision of the state that
30 is a participating political subdivision under AS 26.23.500(a) may request and receive
31 assistance from another participating political subdivision for

1 (1) response, mitigation, or recovery activities related to a local
2 disaster emergency declared under AS 26.23.140;

3 (2) response to a disaster emergency declared by the governor under
4 AS 26.23.020;

5 (3) disaster prevention training exercises conducted under
6 AS 26.23.150; or

7 (4) other drills or exercises conducted in preparation for a disaster.

8 (b) The principal executive officer or an authorized designee of the principal
9 executive officer of a participating political subdivision that is requesting assistance,
10 shall request assistance directly from the principal executive officer or authorized
11 designee of the principal executive officer of another participating political
12 subdivision. Requests may be made orally or in writing and shall be reported directly
13 to the Alaska division of homeland security and emergency management as soon as is
14 practicable. A request for assistance that is made orally must be confirmed in writing
15 within 30 days after the date of the initial oral request.

16 (c) A responding political subdivision shall have sole discretion to withhold or
17 withdraw requested assistance to provide reasonable protection and services within its
18 own territorial limits.

19 (d) Consistent with guidelines and procedures developed by the Alaska
20 division of homeland security and emergency management under AS 26.23.040(e), a
21 responding political subdivision shall document all assistance that is being provided to
22 a requesting political subdivision at the time the assistance is provided and deliver
23 copies of the documentation to the political subdivision that requested assistance
24 within 30 days after the assistance is provided.

25 (e) The political subdivision requesting assistance shall have sole operational
26 control over assistance provided under AS 26.23.500 - 26.23.549. This subsection
27 does not prohibit a responding political subdivision from withdrawing assistance.

28 **Sec. 26.23.515. Qualifications of emergency responders.** An emergency
29 responder holding a license, certificate, or other permit issued by a state agency, or a
30 political subdivision of the state evidencing the responder's qualification in a
31 professional, mechanical, or other skill shall be considered to be licensed, certified, or

1 permitted in the requesting political subdivision during the emergency, disaster, drill,
2 or exercise, subject to limitations and conditions prescribed by the principal executive
3 officer of the requesting political subdivision in writing.

4 **Sec. 26.23.520. Emergency responder not an employee of a requesting**
5 **political subdivision.** An emergency responder from a political subdivision that
6 responds to a political subdivision requesting assistance is not an employee of the
7 political subdivision requesting assistance and is not entitled to any right, privilege, or
8 benefit of employment from the requesting political subdivision, including
9 compensation, wages, salary, leave, pension, health, or another benefit.

10 **Sec. 26.23.525. Workers' compensation and benefits following injury to or**
11 **death of emergency responder.** An emergency responder of a political subdivision
12 that is responding to and rendering assistance in a political subdivision that has
13 requested assistance under AS 26.23.510 who sustains an injury or dies in the course
14 of providing assistance to the requesting political subdivision under AS 26.23.500 -
15 26.23.549 is entitled to receive only the benefits otherwise authorized by law for an
16 injury sustained, or a death that occurs in the course of employment with the
17 responding political subdivision. Any benefits related to injury or death provided by a
18 responding political subdivision to an emergency responder, or the heirs and assigns of
19 an emergency responder, must be included in the true and full value of assistance
20 provided for purposes of reimbursement under AS 26.23.530. This section does not
21 affect the right of a person to receive benefits to which the person would otherwise be
22 entitled under any law, nor does it affect entitlement to any other benefits or
23 compensation authorized by state or federal law.

24 **Sec. 26.23.530. Reimbursement for assistance provided and disputes**
25 **relating to reimbursement.** (a) A political subdivision that has received assistance
26 from another political subdivision under AS 26.23.510 shall reimburse the political
27 subdivision that provided assistance for the true and full value of the assistance
28 provided. Requests for reimbursement shall be made in accordance with procedures
29 and guidelines developed by the Alaska division of homeland security and emergency
30 management under AS 26.23.040(e). However, if authorized by law, a responding
31 political subdivision may donate its assistance provided under AS 26.23.500 -

1 26.23.549 to a requesting political subdivision.

2 (b) If a dispute regarding reimbursement arises between political subdivisions,
 3 the political subdivision asserting the dispute shall provide written notice to the other
 4 political subdivision identifying the reimbursement issues in dispute. If the dispute is
 5 not resolved within 90 days after receipt of the dispute notice by the political
 6 subdivision asserting the dispute, either party to the dispute may request arbitration
 7 under AS 09.43.300 - 09.43.595 (Revised Uniform Arbitration Act) by giving written
 8 notice to the other party. Costs of the arbitration, including compensation for the
 9 arbitrator's services, must be borne equally by the political subdivisions participating
 10 in the arbitration, and each political subdivision shall bear its own costs and expenses,
 11 including legal fees and witness expenses, in connection with the arbitration
 12 proceeding.

13 **Sec. 26.23.540. Tort liability of participating political subdivisions and**
 14 **emergency responders.** For purposes of liability, all persons responding under the
 15 operational control of the requesting political subdivision shall be considered to be
 16 agents of the requesting political subdivision. An action for damages for an act or
 17 omission may not be brought against a responding political subdivision, or an officer
 18 or employee of a responding political subdivision, in providing assistance under
 19 AS 26.23.500 - 26.23.549. This section does not preclude liability for civil damages
 20 that are the result of gross negligence or reckless or intentional misconduct.

21 **Sec. 26.23.549. Definitions.** In AS 26.23.500 - 26.23.549,

22 (1) "assistance" means emergency responders and resources provided
 23 by a responding political subdivision in response to a request from a requesting
 24 political subdivision;

25 (2) "emergency responder" means an employee of a responding
 26 political subdivision who is designated in writing by that responding political
 27 subdivision as possessing skills, qualifications, training, knowledge, or experience that
 28 may be needed, pursuant to a request for assistance under AS 26.23.500 - 26.23.549,
 29 for

30 (A) response, mitigation, or recovery activities related to a
 31 disaster; or

1 (B) participation in drills or exercises in preparation for a
2 disaster;

3 (3) "operational control"

4 (A) means the limited authority to direct tasks, assignments,
5 and use of assistance provided pursuant to a request for assistance under
6 AS 26.23.500 - 26.23.549 for

7 (i) response, mitigation, or recovery activities related to
8 a disaster; or

9 (ii) participation in drills or exercises in preparation for
10 a disaster;

11 (B) does not include medical protocols or standard operating
12 procedures observed in the responding political subdivision, or any right,
13 privilege, or benefit of ownership or employment, including disposition,
14 compensation, wages, salary, pensions, health benefits, leave, seniority,
15 discipline, promotion, hiring, or firing;

16 (4) "resources" means supplies, materials, equipment, facilities,
17 energy, services, information systems, and other assets, except for emergency
18 responders, that may be needed, pursuant to a request for assistance from a political
19 subdivision, for

20 (A) response, mitigation, or recovery activities related to a
21 disaster; or

22 (B) participation in drills or exercises in preparation for a
23 disaster;

24 (5) "state agency" has the meaning given in AS 37.05.990.