

SUBJECT: Adopting the Emergency Management Assistance Compact.

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 12 ayes — Wolens, S. Turner, Carter, Counts, Craddick, Danburg, Hilbert,
Hunter, Longoria, McCall, Ramsay, Stiles

0 nays

3 absent — Alvarado, Brimer, D. Jones

WITNESSES: For — none

Against — none

On — Tom Millwee, Texas Department of Public Safety

BACKGROUND : In August 1993, the governors of 19 states, including Texas, signed the Southern Regional Emergency Management Assistance Compact at the Southern Governor's Association meeting. In January 1995 the National Governor's Association revised the existing interstate compact to create a new nationwide Emergency Management Assistance Compact (EMAC). Each state that wishes to participate in EMAC must ratify the language of the compact.

DIGEST: HB 101 would ratify the Emergency Management Assistance Compact, which provides for mutual assistance between member states in managing emergencies or disasters.

The compact would clarify the tort liability of any state officers or employees who render aid in another member state. No officer or employee would be liable for good faith acts or omissions occurring while rendering aid in another state. Acts or omissions done with willful misconduct, gross negligence or recklessness would be specifically excluded from the good faith exemption.

EMAC would allow compensation for injury or death to an employee of a state rendering aid. The aiding state would be required to pay out-of-state

employees the same benefits as if they had been injured or died within their own state. States requesting aid would also be required to reimburse states rendering aid for other loss, damage or expenses in the course of the emergency. Such reimbursement, though, could be forgiven by the state rendering aid, or supplementary agreements could provide for other reimbursement methods.

In order to trigger the provisions of EMAC, the governor would have to declare an emergency or disaster. An authorized representative of the state in need of assistance would request an authorized representative of a member state for help. The state requested to render assistance would have to provide resources to the state in need. Each state could reserve any resources necessary for the reasonable protection in that state. EMAC could also be used for mutual cooperation in emergency-related exercises or training.

If a request for assistance included requests for licensed or certified persons, those persons licensed or certified in the state rendering aid would be deemed licensed or certified in the state requesting aid for the duration of the emergency.

EMAC would allow the use of National Guard forces in another state when necessary. If emergency forces were deployed in another state, those forces would continue to operate under the command and control of their regular leaders. Operational control, however, would rest with the emergency management authorities of the state receiving aid.

EMAC would provide for the evacuation of civilians when necessary. Any evacuation plans would have to specify the amount of reimbursement for the cost of care and transportation of the evacuees.

EMAC would require each state, to the extent possible, to identify hazards within the state, review the state's emergency plans, develop interstate emergency procedures, warn communities adjacent to or crossing state boundaries and inventory human and material resources available for interstate loan.

A state could withdraw from the compact by enacting a repealing statute, but withdrawal could not take effect until 30 days after the governor of the withdrawing state gave notice in writing to the governors of the other states in the compact. The withdrawing state would have to honor any obligations assumed prior to the effective date of its withdrawal.

HB 101 would take immediate effect if approved by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

HB 101 would establish regular mechanisms to allow Texas to assist, and be assisted by, other states in emergency and disaster situations. States must develop ways to help each other in emergency and disaster situations. The Federal Emergency Management Agency (FEMA) has suffered from a lack of funding as well as increased requirements for assistance. EMAC could allow faster emergency response times, thus saving lives. Texas has operated under the predecessor to EMAC since 1993. Five states have ratified the compact to date. All members of the original Southern Regional compact are expected to ratify EMAC by the end of this year.

EMAC is a widely accepted form of state-to-state assistance. It is coordinated at a national level and has established procedures for dealing with virtually any emergency or disaster. Forms and manuals have been drafted to comply with all aspects of EMAC. The national office keeps information on special services and equipment available in various states as well as potential hazards in each state.

The Emergency Management Service of the Texas Department of Public Safety coordinates intrastate emergencies and disasters. It is already in full compliance with all EMAC requirements and is ready to fully implement EMAC provisions if it is ratified.

The enactment of EMAC is necessary to clarify liability issues when employees of one state are sent to another to render aid. A 1979 U.S. Supreme Court decision held that a state may not always be able to rely on sovereign immunity from liability in such situations. Under EMAC the requesting state would assume the tort liability of the assisting state and its employees. Without such liability provisions states may be hesitant to render emergency aid.

EMAC also establishes clear guidelines for reimbursement to divide the costs of any decision to render or receive aid. This clarity would also help speed the process of providing aid in emergencies. EMAC would not require Texas to deplete its own resources in helping others because any state asked to render aid could reserve resources for its own protection.

The enactment of EMAC would not have a negative fiscal impact on the state. Any assistance the state rendered would be reimbursed by the state requesting aid. Additionally, because Texas would now be able to call on other states for aid in intrastate emergencies, Texas may actually be able to save money while more rapidly responding to emergencies.

**OPPONENTS
SAY:**

Texas has its own organized and competent emergency management services to take care of the needs of this state. It should not be forced to take responsibility for emergencies or disasters in other states. Other states should rely on their own resources or look to the federal government for assistance.

EMAC requires the state to lend its personnel and equipment whenever asked by another state. While resources can be reserved for the state's own protection, there is no provision allowing Texas to withhold sending its citizens in harm's way.

NOTES:

A related bill, HB 100 by Gray, currently pending in the House State Affairs Committee, would adopt the Interstate Emergency Relief Compact, authorizing the deployment of the National Guard to another state for emergency or disaster relief. Also, HB 99 by Gray, currently pending in the Insurance Committee, would fund the Emergency Management Service of DPS and other emergency management programs through an insurance policy surcharge.