



Legislative Council Staff Research Note

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Bill Number

Senate Bill 16-063

Sponsors

***Senator Roberts
Representative Vigil***

Short Title

***Intergovt Agreement With
Out-of-state Local Governments***

Research Analyst

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Status

This research note reflects the final version of the bill. This bill becomes effective August 10, 2016, assuming no referendum petition is filed.

Summary

The bill authorizes counties, municipalities, and designated special districts to enter into an agreement with a county, municipality, or special districts in a bordering state to provide emergency services. Such agreements must comply with the statutory requirements for intergovernmental agreements. The bill grants immunity for persons performing emergency services under such agreements. Any liability that accrues under the Colorado Governmental Immunity Act for persons from another state performing firefighting duties in Colorado are imposed on the Colorado county, municipality, fire protection district, or fire protection authority that is a party to the agreement. If the Governor declares an emergency and activates the Emergency Management Assistance Compact, any provision of the agreement that conflicts with a provision of the compact or a procedural plan or program created in accordance with the compact is void.

Background

Intergovernmental agreements. Intergovernmental agreements enable governments to share the cost of services with other governmental entities that provide similar services. Such agreements sets forth the purpose, power, rights, obligations, and responsibilities of each party to the agreement. Under current law, cities, counties, and other political subdivisions may cooperate or contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating entities, including the sharing of costs, the imposition of taxes, or the incurring of debt. For example, some smaller municipalities have entered into intergovernmental agreements to obtain fire protection services from larger neighboring municipalities. Such

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agreements enable smaller municipalities to benefit from the efficiencies of larger fire departments and save on the cost of providing fire protection to their residents.

Emergency Management Assistance Compact. The Emergency Management Assistance Compact (EMAC) provides a legal mechanism and framework for sharing resources across state lines during governor-declared disasters, including natural disasters, technological hazards, man-made disasters, civil emergency aspects of resources shortages, community disorders, insurgency, and enemy attacks. It also provides a framework for mutual cooperation in emergency-related exercises, testing, or other training activities. Established in 1996, EMAC was ratified by Congress and signed into law. Members must pass state legislation to participate in the EMAC. The EMAC is law in all 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands. Colorado approved the EMAC in 2001. The compact is administered by the National Emergency Management Association.

Liability of requesting jurisdictions. The Colorado Governmental Immunity Act applies to actions for injuries brought under state law against public entities and public employees which lie in tort or could lie in tort, regardless of whether that may be the type of action or the form of relief chosen by a claimant. A tort is a private or civil wrong or injury, other than a breach of contract, for which there is a judicial remedy in the form of an action for damages. Under current law, a chief of police, sheriff, or institution of higher learning that employs peace officers may request the assistance from other law enforcement entities during emergencies. The jurisdiction that requests law enforcement assistance from another jurisdiction in the state assumes liability for the assisting peace officer that accrues under the Colorado Governmental Immunity Act.

Senate Action

Senate Local Government Committee (February 9, 2016). At the hearing, representatives of Colorado Counties, Inc., the Colorado Municipal League, and the Emergency Medical Services Association of Colorado spoke in support of the bill. The Director of the Division of Fire Prevention and Control in the Department of Public Safety also spoke in support of the bill and discussed the threat of wildland fires in Colorado. The committee adopted an amendment to allow special districts to enter into an agreement with a county, municipality, or special district in a bordering state to provide emergency services and extended liability protections to fire protection districts, fire protection authorities, ambulance districts, and health service districts emergency services that operate under such agreements. It also removes provisions specifying that the "Public Airport Authority Act" does not limit the authority of a municipality or county to enter into an intergovernmental agreement to operate an airport without creating an airport authority. The bill was referred to the Committee of the Whole with a recommendation that it be placed on the consent calendar.

Senate second reading (February 12, 2016). The Senate adopted the Senate Local Government Committee report and passed the bill on the second reading consent calendar, as amended.

Senate third reading (February 16, 2016). The Senate passed the bill on third reading with no amendments.

House Action

House Local Government Committee (March 2, 2016). At the hearing, representatives of Colorado Counties, Inc., the Special District Association of Colorado, and the Emergency Medical Services Association of Colorado spoke in support of the bill. The La Plata Board of County Commissioners submitted a letter of support for the bill. The Director of the Division of Fire Prevention and Control in the Department of Public Safety also spoke in support of the bill and discussed the use of intergovernmental agreements by local entities to address emergencies. The committee referred the bill unamended to the Committee of the Whole.

House second reading (March 7, 2016). The House passed the bill on second reading with no amendments.

House third reading (March 8, 2016). The House passed the bill on third reading with no amendments.

Relevant Research

National Emergency Management Association, *The Emergency Management Assistance Compact - A History and Analysis of the Evolution of National Mutual Aid Policy and Operations*, September 2014.