

STATEWIDE MUTUAL AID AGREEMENT

H.B. No. 1471

AN ACT

relating to resource sharing among certain political subdivisions, including regional planning commissions, during a disaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

**ARTICLE 1. CERTAIN DISASTER RESPONSE PROCEDURES FOR POLITICAL
SUBDIVISIONS**

SECTION 1.01. Section 418.004, Government Code, is amended by adding Subdivisions (10) through (14) to read as follows:

(10) "Local government entity" means a county, incorporated city, independent school district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under the laws of this state that maintains the capability to provide mutual aid.

(11) "Mutual aid" means a homeland security activity, as defined by Section 421.001, performed under the system or a written mutual aid agreement.

(12) "Requesting local government entity" means a local government entity requesting mutual aid assistance under the system.

(13) "Responding local government entity" means a local government entity providing mutual aid assistance in response to a request under the system.

(14) "System" means the Texas Statewide Mutual Aid System.

SECTION 1.02. Subchapter E, Chapter 418, Government Code, is amended by adding Section 418.1015 to read as follows:

Sec. 418.1015. EMERGENCY MANAGEMENT DIRECTORS. (a) The presiding officer of the governing body of an incorporated city or

a county or the chief administrative officer of a joint board is designated as the emergency management director for the officer's political subdivision.

(b) An emergency management director serves as the governor's designated agent in the administration and supervision of duties under this chapter. An emergency management director may exercise the powers granted to the governor under this chapter on an appropriate local scale.

(c) An emergency management director may designate a person to serve as emergency management coordinator. The emergency management coordinator shall serve as an assistant to the emergency management director for emergency management purposes.

SECTION 1.03. Section 418.107(c), Government Code, is amended to read as follows:

(c) A local government entity may render mutual aid to other local government entities under mutual aid agreements or the system.

SECTION 1.04. The heading to Section 418.109, Government Code, is amended to read as follows:

Sec. 418.109. AUTHORITY TO RENDER MUTUAL AID ASSISTANCE.

SECTION 1.05. Section 418.109(d), Government Code, is amended to read as follows:

(d) A local government entity or organized volunteer group may provide mutual aid assistance on request from another local government entity or organized volunteer group. The chief or highest ranking officer of the entity from which assistance is requested, with the approval and consent of the presiding officer of the governing body of that entity, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the governing body of that entity.

SECTION 1.06. Section 418.110, Government Code, is amended to read as follows:

Sec. 418.110. STATEWIDE MUTUAL AID PROGRAM FOR FIRE

EMERGENCIES. (a) The division, in consultation with state fire protection agencies and the Texas Commission on Fire Protection, may ~~shall~~ develop a statewide mutual aid program for fire emergencies.

(b) A program developed under this section:

(1) does not alter the legal obligations of a political subdivision participating in the system; and

(2) must be consistent with the state emergency management plan.

SECTION 1.07. Chapter 418, Government Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. TEXAS STATEWIDE MUTUAL AID SYSTEM

Sec. 418.111. CREATION OF THE TEXAS STATEWIDE MUTUAL AID SYSTEM. (a) The Texas Statewide Mutual Aid System is established to provide integrated statewide mutual aid response capability between local government entities without a written mutual aid agreement.

(b) A request for mutual aid assistance between local government entities is considered to be made under the system, unless the requesting and responding entities are parties to a written mutual aid agreement in effect when the request is made.

(c) This subchapter does not affect a written mutual aid agreement between local government entities in effect on or before the effective date of this subchapter or restrict the ability of local government entities to enter into a written mutual aid agreement as otherwise authorized by statute after the effective date of this subchapter. If a request is made between local government entities that are parties to a written mutual aid agreement, the terms of that agreement control the rights and obligations of the parties.

Sec. 418.112. ADMINISTRATION BY DIVISION. The division shall administer the system. In administering the system, the division shall encourage and assist political subdivisions in planning and

implementing comprehensive all-hazards emergency management programs, including assisting political subdivisions to ensure that the local emergency management plan of each subdivision adequately provides for the rendering and receipt of mutual aid.

Sec. 418.113. DISASTER DISTRICTS. (a) This state is divided into disaster districts to engage in homeland security preparedness and response activities. The boundaries of the disaster districts coincide with the geographic boundaries of the state planning regions established by the governor under Chapter 391, Local Government Code.

(b) A disaster district committee is established for each disaster district. Each committee is composed of local representatives of the state agencies, boards, and commissions and organized volunteer groups with representation on the emergency management council.

(c) Each disaster district committee shall coordinate with political subdivisions located in the disaster district to ensure that state and federal emergency assets are made available as needed to provide the most efficient and effective response possible.

(d) The public safety director of the Department of Public Safety of the State of Texas shall appoint a commanding officer from the Texas Highway Patrol to serve as chair of each disaster district committee. The chair shall:

(1) inform the state Director of Homeland Security on all matters relating to disasters and emergencies as requested by the state Director of Homeland Security; and

(2) inform the public safety director of the Department of Public Safety of the State of Texas on all matters as requested by the public safety director.

(e) Representatives of the emergency management council assigned to each district shall assist the chair of their disaster district committee and provide guidance, counsel, and

administrative support as required.

Sec. 418.114. PROCEDURES FOR MUTUAL AID. (a) The political subdivisions in each state planning region established by the governor under Chapter 391, Local Government Code, shall agree on procedures that specify the manner in which mutual aid will be provided in response to a request from:

- (1) a political subdivision in the region;
- (2) a political subdivision in another region; or
- (3) this state.

(b) A copy of the procedures must be provided to the division and the disaster district committee chair.

Sec. 418.115. REQUESTING AND PROVIDING MUTUAL AID ASSISTANCE.

(a) A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing not later than the 30th day after the date the request was made.

(b) If a request for mutual aid assistance is made to a department or agency of a political subdivision, the chief or highest ranking officer of the department or agency, with the approval and consent of the presiding officer of the governing body of the political subdivision or that officer's designee, may provide the requested assistance in accordance with the policies, ordinances, and procedures established by the governing body of the political subdivision.

Sec. 418.1151. ASSESSMENT OF ABILITY TO RENDER ASSISTANCE.

(a) When contacted with a request for mutual aid assistance, a local government entity shall assess local resources to determine availability of personnel, equipment, and other assistance to respond to the request.

(b) A responding local government entity may provide assistance to the extent personnel, equipment, and resources are determined to be available. A local government entity is not required to provide mutual aid assistance unless the entity

determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.

Sec. 418.1152. SUPERVISION AND CONTROL. When providing mutual aid assistance under the system:

(1) the response effort must be organized and function in accordance with the National Incident Management System guidelines;

(2) the personnel, equipment, and resources of a responding local government entity being used in the response effort are under the operational control of the requesting local government entity unless otherwise agreed;

(3) direct supervision and control of personnel, equipment, and resources and personnel accountability remain the responsibility of the designated supervisory personnel of the responding local government entity;

(4) unless otherwise agreed in advance, an emergency medical service organization providing assistance under the system shall use the medical protocols authorized by the organization's medical director;

(5) the designated supervisory personnel of the responding local government entity shall:

(A) maintain daily personnel time records, material records, and a log of equipment hours;

(B) be responsible for the operation and maintenance of the equipment and other resources furnished by the responding local government entity; and

(C) report work progress to the requesting local government entity; and

(6) the responding local government entity's personnel and other resources are subject to recall at any time, subject to reasonable notice to the requesting local government entity.

Sec. 418.1153. DURATION OF AID. The provision of mutual aid

assistance under the system may continue until:

(1) the services of the responding local government entity are no longer required; or

(2) the responding local government entity determines that further assistance should not be provided.

Sec. 418.116. RIGHTS AND PRIVILEGES. (a) A person assigned, designated, or ordered to perform duties by the governing body of the local government entity employing the person in response to a request under the system is entitled to receive the same wages, salary, pension, and other compensation and benefits, including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of the duties under the system as though the services were rendered for the entity employing the person.

(b) The local government entity employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under the system.

Sec. 418.117. LICENSE PORTABILITY. If the assistance of a person who holds a license, certificate, permit, or other document evidencing qualification in a professional, mechanical, or other skill is requested by a local government entity under the system, the person is considered licensed, certified, permitted, or otherwise documented in the political subdivision in which the service is provided as long as the service is required, subject to any limitations imposed by the chief executive officer or the governing body of the requesting local government entity.

Sec. 418.118. REIMBURSEMENT OF COSTS: STATE REQUEST OR FEDERAL DISASTER DECLARATION. (a) The division shall administer all requests for reimbursement for costs associated with providing mutual aid assistance in response to a request made by the division for an incident resulting in the issuance of a disaster declaration by the president of the United States. A request for reimbursement

made to the division must be made in accordance with procedures developed by the division.

(b) The division may directly request the provision of mutual aid assistance from any local government entity participating in the system. If the division requests the provision of assistance and the local government entity responds, the state shall reimburse the actual costs of providing assistance, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity. The state shall pay reimbursements from available state money. If funds are made available from the disaster contingency fund, the division shall make reimbursement from the disaster contingency fund for eligible expenses to the extent that available state money is inadequate.

(c) If federal money is available to pay costs associated with the provision of mutual aid assistance in response to a request made by the division, the division shall make the claim for the eligible costs of the responding local government entity on the division's grant application and shall disburse the federal share of the money to the responding local government entity, with sufficient state funds to cover the actual costs incurred by the responding local government entity in providing the assistance.

Sec. 418.1181. REIMBURSEMENT OF COSTS: REQUEST BY LOCAL GOVERNMENT ENTITY. (a) If a local government entity requests mutual aid assistance from another local government entity under the system, the requesting local government entity shall reimburse the actual costs of providing mutual aid assistance to the responding local government entity, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the responding local government entity in response to a request for reimbursement. Local government entities with a mutual aid agreement when the request for mutual aid assistance is made are subject to the

agreement's terms of reimbursement, as provided by Section 418.111.

(b) The requesting local government entity shall pay the reimbursement from available funds. If federal money is available to pay costs associated with the provision of mutual aid assistance, the requesting local government entity shall make the claim for the eligible costs of the responding local government entity on the requesting entity's subgrant application and shall disburse the federal share of the money to the responding local government entity, with sufficient local funds to cover the actual costs of the responding local government entity in providing assistance.

SECTION 1.08. Section 418.004(9) and Sections 418.109(a), (b), and (c), Government Code, are repealed.

SECTION 1.09. This Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.

If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.