

# Government Mutual Aid Agreements

A series of disasters — more recently, 1992's Hurricane Andrew in Florida and the extensive flooding along the Mississippi River in 1993 — have focused unprecedented attention on governmental planning and preparedness and the provision of emergency services. One mechanism that has been devised for times of actual or potential disasters or emergency situations is a mutual aid or cooperative agreement.

In 1991, the state of North Dakota enacted legislation authorizing its division of emergency management to assist local governments in entering mutual aid agreements with other public and private agencies for aid in responding to and recovering from disasters or emergencies (Ch. 381, SB 2152). The legislation allows the governor, on behalf of the state, to join with other states or with Canadian provinces in interstate mutual aid agreements or compacts, the text of which is incorporated into the act.

Florida enacted legislation in 1993 calling for an interstate compact on emergency relief (Ch. 283, HB 1925). The compact formally recognizes informal agreements between the Florida National Guard and Guard organizations from other states. It is designed to protect the rights of Florida Guard members performing emergency duties in other states and to allow the Guard to pre-arrange for personnel and equipment from other states in times of emergency.

The act presented below is based on 1991 amendments to Wisconsin legislation originally enacted in 1971. The provisions on emergency government allow the governor, on behalf of the state, to enter into mutual aid agreements with other states. The 1991 amendments allow counties, municipalities and towns to contract for emergency government services with political subdivisions, emergency government units and civil defense units within the state, and upon approval of the state adjutant general, with such entities in bordering states.

Also under the enactment, employees of (or volunteers with) municipal and county emergency government units are considered employees of (or volunteers with) the municipality or county to which the unit is attached for purposes of workers' compensation benefits. Emergency government employees or volunteers who engage in emergency government activities upon order of any echelon in the emergency government organization **other than** that which carries their workers' compensation coverage are eligible for the same benefits as though employed by the governmental unit employing them.

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## Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title*] This act may be cited as the Government Mutu-  
2 al Aid Act.

## Suggested State Legislation

### 1 Section 2. [*Cooperation.*]

2 (a) Counties, towns, and municipalities may cooperate under [insert  
3 citation for section of state code] to furnish services, combine offices and  
4 finance emergency government services.

5 (b) Counties, towns and municipalities may contract for emergency  
6 government services with political subdivisions, emergency government  
7 units and civil defense units of this state, and upon prior approval of the  
8 [state adjutant general], with such entities in bordering states. A copy  
9 of each such agreement shall be filed with the [state adjutant general]  
10 within 10 days after execution thereof.

11 (c) The state and its departments and independent agencies and each  
12 county, town and municipality shall furnish whatever services, equip-  
13 ment, supplies and personnel are required of them under [insert cita-  
14 tion for section of state code regarding emergency government].

### 1 Section 3. [*Personnel.*]

2 (a) Employees of municipal and county emergency government units  
3 are employees of the municipality or county to which the unit is attached  
4 for purposes of workers' compensation benefits. Employees of the area  
5 and state emergency government units are employees of the state for pur-  
6 poses of workers' compensation benefits. Volunteer emergency govern-  
7 ment workers are employees of the emergency government unit with  
8 whom duly registered in writing for purposes of workers' compensation  
9 benefits. An emergency government employee or volunteer who engages  
10 in emergency government activities upon order of any echelon in the  
11 emergency government organization other than that which carries his  
12 or her workers' compensation coverage shall be eligible for the same  
13 benefits as though employed by the governmental unit employing him  
14 or her. Any employment which is part of an emergency government pro-  
15 gram including but not restricted because of enumeration, test runs and  
16 other activities which have a training objective as well as emergency  
17 government activities during an emergency proclaimed in accordance  
18 with [insert citation for section of state code regarding emergency  
19 government] and which grows out of, and is incidental to, such emergency  
20 government activity is covered employment. Members of an emergen-  
21 cy government unit who are not acting as employees of a private employ-  
22 er during emergency government activities are employees of the emer-  
23 gency government unit for which acting. If no pay agreement exists or  
24 if the contract pay is less, pay for workers' compensation purposes shall  
25 be computed in accordance with [insert citation for appropriate section  
26 of state code].

27 (b) Emergency government employees as defined in subsection (a) of  
28 this section shall be indemnified by their sponsor against any tort li-  
29 ability to third persons incurred in the performance of emergency govern-  
30 ment activities while acting in good faith and in a reasonable manner.  
31 Emergency government activities constitute a governmental function.

32 (c) If the total liability for workers' compensation benefits under sub-  
33 section (a) of this act, indemnification under subsection (b) and loss from  
34 destruction of equipment under Section 4 of this act, incurred in any

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35 calendar year exceeds [one (1)] dollar per capita of the sponsor's popula-  
36 tion, the state shall reimburse the sponsor for the excess. Payment shall  
37 be made from the appropriation in [insert citation for appropriate sec-  
38 tion of state code] on certificate of the [state adjutant general].

39 (d) Emergency government employees as such shall receive no pay un-  
40 less specific agreement for pay is made.

1 Section 4. [*Bearing of Losses.*] Any loss arising from the damage to or  
2 destruction of government-owned equipment utilized in any authorized  
3 emergency government activity shall be borne by the owner thereof.

1 Section 5. [*Exemption from Liability.*] No person who provides equip-  
2 ment or services under the direction of the governor, the [state adjutant  
3 general] or the head of emergency government services in any county,  
4 town, or municipality during a state of emergency declared by the gover-  
5 nor is liable for the death of or injury to any person or damage to any  
6 property caused by his or her actions, except where the trier of fact finds  
7 that the person acted intentionally or with gross negligence. This sec-  
8 tion does not affect the right of any person to receive benefits to which  
9 he or she would otherwise be entitled under the worker's compensation  
10 law or under any pension law, nor does it affect entitlement to any oth-  
11 er benefits or compensation authorized by state or federal law.

1 Section 6. [*Effective Date.*] [Insert effective date.]