

SENATE BILL No. 347

DIGEST OF SB 347 (Updated January 27, 1998 5:42 pm - DI 93)

Citations Affected: IC 10-4; IC 22-14; IC 36-1.

Synopsis: Emergency management assistance compact. Enacts the emergency management assistance compact, a compact that Indiana and other states may enter into to provide for: (1) mutual assistance among the party states in managing an emergency or disaster; and (2) cooperation in emergency related exercises, testing, or other training activities. Requires each state that is a party to the compact to formulate specified procedural plans and programs for interstate cooperation. Specifies that the executive director of the fire and building services department has law enforcement authority while investigating the causes and circumstances surrounding a fire or an explosion.

Effective: Upon passage.

Sipes, Wyss, Craycraft, Jackman

January 8, 1998, read first time and referred to Committee on Insurance and Interstate Cooperation.
January 20, 1998, reported favorably — Do Pass.
January 27, 1998, read second time, amended, ordered engrossed.

SB 347—LS 6758/DI 87



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Reprinted
January 28, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE BILL No. 347

A BILL FOR AN ACT to amend the Indiana Code concerning state police, civil defense, and military affairs.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-4-2.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 2.5. Emergency Management Assistance Compact**
5 **Sec. 1. ARTICLE I—Purpose and authorities.**

6 **This compact is made and entered into by and between the**
7 **participating member states which enact this compact, hereinafter**
8 **called party states. For the purposes of this compact, "states"**
9 **means the several states, the Commonwealth of Puerto Rico, the**
10 **District of Columbia, and all U.S. territorial possessions.**

11 **The purpose of this compact is to provide for mutual assistance**
12 **among the states entering into this compact in managing any**
13 **emergency or disaster that is duly declared by the governor of the**
14 **affected state, whether arising from natural disaster, technological**
15 **hazard, man made disaster, civil emergency aspects of resources**
16 **shortages, community disorders, insurgency, or enemy attack.**

17 **This compact shall also provide for mutual cooperation in**

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1 emergency related exercises, testing, or other training activities
 2 using equipment and personnel simulating performance of any
 3 aspect of the giving and receiving of aid by party states or
 4 subdivisions of party states during emergencies, such actions
 5 occurring outside actual declared emergency periods. Mutual
 6 assistance in this compact may include the use of the states'
 7 National Guard forces, either in accordance with the National
 8 Guard Mutual Assistance Compact or by mutual agreement
 9 between states.

10 **Sec. 2. ARTICLE II—General implementation.**

11 Each party state entering into this compact recognizes that
 12 many emergencies transcend political jurisdictional boundaries
 13 and that intergovernmental coordination is essential in managing
 14 these and other emergencies under this compact. Each state
 15 further recognizes that there will be emergencies which require
 16 immediate access and present procedures to apply outside
 17 resources to make a prompt and effective response to such an
 18 emergency. This is because few, if any, individual states have all
 19 the resources they may need in all types of emergencies or the
 20 capability of delivering resources to areas where emergencies exist.

21 The prompt, full, and effective utilization of resources of the
 22 participating states, including any resources on hand or available
 23 from the federal government or any other source, that are essential
 24 to the safety, care, and welfare of the people in the event of any
 25 emergency or disaster declared by a party state, shall be the
 26 underlying principle on which all articles of this compact shall be
 27 understood.

28 On behalf of the governor of each state participating in the
 29 compact, the legally designated state official who is assigned
 30 responsibility for emergency management will be responsible for
 31 formulation of the appropriate interstate mutual aid plans and
 32 procedures necessary to implement this compact.

33 **Sec. 3. ARTICLE III—Party state responsibilities.**

34 (a) It shall be the responsibility of each party state to formulate
 35 procedural plans and programs for interstate cooperation in the
 36 performance of the responsibilities listed in this article. In
 37 formulating such plans, and in carrying them out, the party states,
 38 insofar as practical, shall:

- 39 (1) review individual state hazards analyses and, to the extent
 40 reasonably possible, determine all those potential emergencies
 41 the party states might jointly suffer, whether due to natural
 42 disaster, technological hazard, man made disaster, emergency



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- 1 aspects of resources shortages, civil disorders, insurgency, or
 2 enemy attack;
- 3 (2) review party states' individual emergency plans and
 4 develop a plan which will determine the mechanism for the
 5 interstate management and provision of assistance concerning
 6 any potential emergency;
- 7 (3) develop interstate procedures to fill any identified gaps
 8 and to resolve any identified inconsistencies or overlaps in
 9 existing or developed plans;
- 10 (4) assist in warning communities adjacent to or crossing the
 11 state boundaries;
- 12 (5) protect and assure uninterrupted delivery of services,
 13 medicines, water, food, energy and fuel, search and rescue,
 14 and critical lifeline equipment, services, and resources, both
 15 human and material;
- 16 (6) inventory and set procedures for the interstate loan and
 17 delivery of human and material resources, together with
 18 procedures for reimbursement or forgiveness; and
- 19 (7) provide, to the extent authorized by law, for temporary
 20 suspension of any statutes or ordinances that restrict the
 21 implementation of the above responsibilities.
- 22 (b) The authorized representative of a party state may request
 23 assistance to another party state by contacting the authorized
 24 representative of that state. The provisions of this compact shall
 25 only apply to requests for assistance made by and to authorized
 26 representatives. Requests may be verbal or in writing. If verbal,
 27 the request shall be confirmed in writing within thirty (30) days of
 28 the verbal request. Requests shall provide the following
 29 information:
- 30 (1) A description of the emergency service function for which
 31 assistance is needed, including, but not limited to, fire
 32 services, law enforcement, emergency medical,
 33 transportation, communications, public works and
 34 engineering, building, inspection, planning and information
 35 assistance, mass care, resource support, health and medical
 36 services, and search and rescue.
- 37 (2) The amount and type of personnel, equipment, materials
 38 and supplies needed, and a reasonable estimate of the length
 39 of time they will be needed.
- 40 (3) The specific place and time for staging of the assisting
 41 party's response and a point of contact at that location.
- 42 (c) There shall be frequent consultation between state officials



1 who have assigned emergency management responsibilities and
2 other appropriate representatives of the party states with affected
3 jurisdictions and the United States government, with free exchange
4 of information, plans, and resource records relating to emergency
5 capabilities.

6 **Sec. 4. ARTICLE IV—Limitations.**

7 Any party state requested to render mutual aid or conduct
8 exercises and training for mutual aid shall take such action as is
9 necessary to provide and make available the resources covered by
10 this compact in accordance with the terms of this compact.
11 However, it is understood that the state rendering aid may
12 withhold resources to the extent necessary to provide reasonable
13 protection for such state.

14 Each party state shall afford to the emergency forces of any
15 party state, while operating within its state limits under the terms
16 and conditions of this compact, the same powers, except that of
17 arrest unless specifically authorized by the receiving state, duties,
18 rights, and privileges as are afforded forces of the state in which
19 they are performing emergency services. Emergency forces will
20 continue under the command and control of their regular leaders,
21 but the organizational units will come under the operational
22 control of the emergency services authorities of the state receiving
23 assistance. These conditions may be activated, as needed, only
24 subsequent to a declaration of a state emergency or disaster by the
25 governor of the party state that is to receive assistance or upon
26 commencement of exercises or training for mutual aid and shall
27 continue so long as the exercises or training for mutual aid are in
28 progress, the state of emergency or disaster remains in effect, or
29 loaned resources remain in the receiving state, whichever is longer.

30 **Sec. 5. ARTICLE V—Licenses and permits.**

31 Whenever any person holds a license, certificate, or other
32 permit issued by any state party to the compact evidencing the
33 meeting of qualifications for professional, mechanical, or other
34 skills, and when such assistance is requested by the receiving party
35 state, such person shall be considered licensed, certified, or
36 permitted by the state requesting assistance to render aid involving
37 such skill to meet a declared emergency or disaster, subject to such
38 limitations and conditions as the governor of the requesting state
39 may prescribe by executive order or otherwise.

40 **Sec. 6. ARTICLE VI—Liability.**

41 Officers or employees of a party state rendering aid in another
42 state under this compact shall be considered agents of the

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1 requesting state for tort liability and immunity purposes. No party
2 state or its officers or employees rendering aid in another state
3 under this compact shall be liable on account of any act or
4 omission in good faith on the part of such forces while so engaged
5 or on account of the maintenance or use of any equipment or
6 supplies in connection therewith. Good faith in this article shall not
7 include willful misconduct, gross negligence, or recklessness.

8 **Sec. 7. ARTICLE VII—Supplementary agreements.**

9 Inasmuch as it is probable that the pattern and detail of the
10 machinery for mutual aid among two (2) or more states may differ
11 from that among the states that are party to this compact, this
12 compact contains elements of a broad base common to all states,
13 and nothing in this compact precludes any state entering into
14 supplementary agreements with another state or affect any other
15 agreements already in force between states. Supplementary
16 agreements may comprehend, but shall not be limited to,
17 provisions for evacuation and reception of injured and other
18 persons and the exchange of medical, fire, police, public utility,
19 reconnaissance, welfare, transportation and communications
20 personnel, and equipment and supplies.

21 **Sec. 8. ARTICLE VIII—Compensation.**

22 Each party state shall provide for the payment of compensation
23 and death benefits to injured members of the emergency forces of
24 that state and representatives of deceased members of such forces
25 in case such members sustain injuries or are killed while rendering
26 aid under this compact, in the same manner and on the same terms
27 as if the injury or death were sustained within their own state.

28 **Sec. 9. ARTICLE IX—Reimbursement.**

29 Any party state rendering aid in another state under this
30 compact shall be reimbursed by the party state receiving such aid
31 for any loss or damage to or expense incurred in the operation of
32 any equipment and the provision of any service in answering a
33 request for aid and for the costs incurred in connection with such
34 requests. However, any aiding party state may assume in whole or
35 in part such loss, damage, expense, or other cost, or may loan such
36 equipment or donate such services to the receiving party state
37 without charge or cost, and any two (2) or more party states may
38 enter into supplementary agreements establishing a different
39 allocation of costs among those states. Article VIII expenses shall
40 not be reimbursable under this article.

41 **Sec. 10. ARTICLE X—Evacuation.**

42 Plans for the orderly evacuation and interstate reception of



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1 portions of the civilian population as the result of any emergency
2 or disaster of sufficient proportions to so warrant, shall be worked
3 out and maintained between the party states and the emergency
4 management services directors of the various jurisdictions where
5 any type of incident requiring evacuations might occur. Such plans
6 shall be put into effect by request of the state from which evacuees
7 come and shall include the manner of transporting such evacuees,
8 the number of evacuees to be received in different areas, the
9 manner in which food, clothing, housing, and medical care will be
10 provided, the registration of the evacuees, the providing of facilities
11 for the notification of relatives or friends, and the forwarding of
12 such evacuees to other areas or the bringing in of additional
13 materials, supplies, and all other relevant factors. Such plans shall
14 provide that the party state receiving evacuees and the party state
15 from which the evacuees come shall mutually agree as to
16 reimbursement of out-of-pocket expenses incurred in receiving and
17 caring for such evacuees, for expenditures for transportation, food,
18 clothing, medicines and medical care, and like items. Such
19 expenditures shall be reimbursed as agreed by the party state from
20 which the evacuees come. After the termination of the emergency
21 or disaster, the party state from which the evacuees come shall
22 assume the responsibility for the ultimate support of repatriation
23 of such evacuees.

24 **Sec. 11. ARTICLE XI—Implementation.**

25 (a) This compact shall become effective immediately upon its
26 enactment into law by any two (2) states. Thereafter, this compact
27 shall become effective as to any other state upon enactment by such
28 state.

29 (b) Any party state may withdraw from this compact by
30 enacting a statute repealing the same, but no such withdrawal shall
31 take effect until thirty (30) days after the governor of the
32 withdrawing state has given notice in writing of such withdrawal
33 to the governors of all other party states. Such action shall not
34 relieve the withdrawing state from obligations assumed under this
35 compact before the effective date of withdrawal.

36 (c) Duly authenticated copies of this compact and of such
37 supplementary agreements as may be entered into shall, at the time
38 of their approval, be deposited with each of the party states and
39 with the Federal Emergency Management Agency and other
40 appropriate agencies of the United States Government.

41 **Sec. 12. ARTICLE XII—Validity.**

42 This compact shall be construed to effectuate the purposes

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1 stated in Article I. If any provision of this compact is declared
2 unconstitutional, or the applicability of this compact to any person
3 or circumstances is held invalid, the constitutionality of the
4 remainder of this compact and the applicability of this compact to
5 other persons and circumstances shall not be affected.

6 **Sec. 13. ARTICLE XIII—Additional provisions.**

7 Nothing in this compact shall authorize or permit the use of
8 military force by the National Guard of a state at any place outside
9 that state in any emergency for which the President is authorized
10 by law to call into federal service the militia, or for any purpose for
11 which the use of the Army or the Air Force would, in the absence
12 of express statutory authorization, be prohibited under 18 U.S.C.
13 1385.

14 **Sec. 14. Right To Alter, Amend, or Repeal.**

15 The right to alter, amend, or repeal this chapter is hereby
16 expressly reserved. The consent granted by this chapter shall:

17 (1) not be construed as impairing or in any manner affecting
18 any right or jurisdiction of the United States in and over the
19 subject of the compact;

20 (2) not be construed as consent to the National Guard Mutual
21 Assistance Compact;

22 (3) be construed as understanding that the first paragraph of
23 Article II of the compact provides that emergencies will
24 require procedures to provide immediate access to existing
25 resources to make a prompt and effective response;

26 (4) not be construed as providing authority under Article III
27 (a)(7) that does not otherwise exist for the suspension of
28 statutes or ordinances;

29 (5) be construed as understanding that Article III (c) does not
30 impose any affirmative obligation to exchange information,
31 plans, and resource records on the United States or any party
32 which has not entered into the compact; and

33 (6) be construed as understanding that Article XIII does not
34 affect the authority of the President over the National Guard
35 provided by Article I of the Constitution of the United States
36 and 10 U.S.C.

37 **Sec. 15. Construction and Severability.**

38 It is intended that the provisions of this compact shall be
39 reasonably and liberally construed to effectuate the purposes
40 thereof. If any part or application of this compact, or legislation
41 enabling the compact, is held invalid, the remainder of the compact
42 or its application to other situations or persons shall not be

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1 affected.

2 **Sec. 16. Inconsistency of Language.**

3 **The validity of this compact shall not be affected by any**
 4 **insubstantial difference in its form or language as adopted by the**
 5 **states.**

6 SECTION 2. IC 22-14-2-8, AS AMENDED BY P.L.167-1997,
 7 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 8. (a) Regardless of the extent of the
 9 investigation conducted by a fire department under IC 36-8-17-7, the
 10 office may conduct an investigation into the causes and circumstances
 11 surrounding any fire or explosion.

12 (b) To carry out this section, the office may:

- 13 (1) exercise its powers under section 4 of this chapter;
- 14 (2) assist a prosecuting attorney with any criminal investigation;
- 15 (3) subpoena witnesses and order the production of books,
 16 documents, and other evidence;
- 17 (4) give oaths and affirmations;
- 18 (5) take depositions and conduct hearings;
- 19 (6) separate witnesses and otherwise regulate the course of
 20 proceedings; and
- 21 (7) obtain and secure evidence.

22 (c) Subpoenas, discovery orders, and protective orders issued under
 23 this section shall be enforced under IC 4-21.5-6-2.

24 (d) A person who is summoned and testifies under this section is
 25 entitled to receive a minimum salary per diem and a mileage allowance
 26 from the fire and building services fund. The budget agency shall set
 27 the amount of the per diem and mileage allowance.

28 (e) The state fire marshal and the investigators in the arson division
 29 of the office of the state fire marshal have law enforcement authority
 30 at all times while discharging their duties under this section as
 31 employees of the department.

32 **(f) The executive director of the fire and building services**
 33 **department has law enforcement authority at all times while**
 34 **discharging the duties of the executive director under this section.**

35 SECTION 3. IC 36-1-7-3 IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An agreement under this
 37 section must provide for the following:

- 38 (1) Its duration.
- 39 (2) Its purpose.
- 40 (3) The manner of financing, staffing, and supplying the joint
 41 undertaking and of establishing and maintaining a budget
 42 therefor.



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1 (4) The methods that may be employed in accomplishing the
 2 partial or complete termination of the agreement and for disposing
 3 of property upon partial or complete termination.

4 (5) Administration through:

5 (A) a separate legal entity, the nature, organization,
 6 composition, and powers of which must be provided; or

7 (B) a joint board composed of representatives of the entities
 8 that are parties to the agreement, and on which all parties to
 9 the agreement must be represented.

10 (6) The manner of acquiring, holding, and disposing of real and
 11 personal property used in the joint undertaking, whenever a joint
 12 board is created under subdivision (5)(B).

13 In addition, such an agreement may provide for any other appropriate
 14 matters.

15 (b) A separate legal entity or joint board established by an
 16 agreement under this section has only the powers delegated to it by the
 17 agreement. The agreement may not provide for members, directors, or
 18 trustees of the separate legal entity or joint board to make appointments
 19 (either individually or jointly) to fill vacancies on the separate legal
 20 entity or joint board.

21 (c) **Subsection (a)(6) does not apply to an emergency**
 22 **management assistance compact under IC 10-4-2.5.**

23 SECTION 4. IC 36-1-7-7, AS AMENDED BY P.L.229-1996,
 24 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 7. (a) **Except as provided in subsection (c),**
 26 if an agreement under section 3 of this chapter concerns the provision
 27 of law enforcement or firefighting services, the following provisions
 28 apply:

29 (1) Visiting law enforcement officers or firefighters have the same
 30 powers and duties as corresponding personnel of the entities they
 31 visit, but only for the period they are engaged in activities
 32 authorized by the entity they are visiting, and are subject to all
 33 provisions of law as if they were providing services within their
 34 own jurisdiction.

35 (2) An entity providing visiting personnel remains responsible for
 36 the conduct of its personnel, for their medical expenses, for
 37 worker's compensation, and if the entity is a volunteer fire
 38 company, for all benefits provided by IC 36-8-12.

39 (b) A ~~unit~~ law enforcement or fire service agency of a unit or of the
 40 state may request the assistance of a law enforcement or fire service
 41 agency of another unit, even if no agreement for such assistance is in
 42 effect. In such a case, subsection (a)(1) and (a)(2) apply, the agency



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1 requesting assistance shall pay all travel expenses, and all visiting
2 personnel shall be supervised by the agency requesting assistance.

3 **(c) This subsection applies to a law enforcement officer that**
4 **visits another state after a request for assistance from another state**
5 **under the emergency management compact is made under**
6 **IC 10-4-2.5. A law enforcement officer that visits another state**
7 **does not have the power of arrest unless the law enforcement**
8 **officer is specifically authorized to exercise the power by the**
9 **receiving state.**

10 SECTION 5. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Interstate Cooperation, to which was referred Senate Bill 347, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 347 as introduced.)

WORMAN, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Senators Craycraft and Jackman be added as coauthors of Senate Bill 347.

SIPES

SENATE MOTION

Mr. President: I move that Senate Bill 347 be amended to read as follows:

Page 8, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 2. IC 22-14-2-8, AS AMENDED BY P.L.167-1997, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Regardless of the extent of the investigation conducted by a fire department under IC 36-8-17-7, the office may conduct an investigation into the causes and circumstances surrounding any fire or explosion.

(b) To carry out this section, the office may:

- (1) exercise its powers under section 4 of this chapter;
- (2) assist a prosecuting attorney with any criminal investigation;
- (3) subpoena witnesses and order the production of books, documents, and other evidence;
- (4) give oaths and affirmations;
- (5) take depositions and conduct hearings;
- (6) separate witnesses and otherwise regulate the course of proceedings; and
- (7) obtain and secure evidence.

(c) Subpoenas, discovery orders, and protective orders issued under this section shall be enforced under IC 4-21.5-6-2.

(d) A person who is summoned and testifies under this section is entitled to receive a minimum salary per diem and a mileage allowance from the fire and building services fund. The budget agency shall set the amount of the per diem and mileage allowance.

(e) The state fire marshal and the investigators in the arson division of the office of the state fire marshal have law enforcement authority at all times while discharging their duties under this section as employees of the department.

(f) The executive director of the fire and building services department has law enforcement authority at all times while discharging the duties of the executive director under this section."



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Renumber all SECTIONS consecutively.
(Reference is to Senate Bill 347 as printed January 21, 1998.)

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