

2018 Regular Session

HOUSE BILL NO. 358

BY REPRESENTATIVES FOIL AND HODGES

HOMELAND SECURITY: Provides relative to emergency management

1 AN ACT

2 To amend and reenact R.S. 9:2793.8, R.S. 29:733(C)(Article 6), and R.S. 33:4712.18(A)(3),  
3 and to enact R.S. 29:735.4 and R.S. 42:1102(18)(b)(iii), relative to emergency  
4 preparedness and disaster management; to provide relative to the Emergency  
5 Management Assistance Compact; to provide for a registry of volunteers for disaster  
6 or emergency response; to provide for credentials of volunteers; to provide for  
7 definitions; to provide a limitation of liability for volunteers; to provide relative to  
8 leave from employment; to provide for applicability; to provide limitations; and to  
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 9:2793.8 is hereby amended and reenacted to read as follows:

12 §2793.8. Gratuitous services rendered by National Voluntary Organizations Active  
13 in Disaster and other volunteer agencies; limitation of liability

14 A. The National Voluntary Organizations Active in Disaster or its member  
15 organizations or any officer, employee, or volunteer thereof, who gratuitously  
16 renders any evacuation assistance or services of any kind to other persons in advance  
17 of a hurricane or tropical storm declared by the United States National Oceanic and  
18 Atmospheric Administration's National Weather Service or who gratuitously renders  
19 any disaster relief or recovery services following a declared state of emergency, shall  
20 not be liable to any person for any injury, death, loss, civil penalty, or damage as a

1 result of any act or omission in rendering assistance, relief, or recovery services or  
2 as a result of any act or failure to act or failure to provide or arrange for further  
3 services, unless the damage or injury was caused by gross negligence or willful and  
4 wanton misconduct.

5 B. Other volunteer agencies who gratuitously render any disaster relief or  
6 recovery services following a declared state of emergency shall not be liable to any  
7 person for any injury, death, loss, civil penalty, or damage as a result of any act or  
8 omission in rendering assistance relief, or recovery services or as a result of any act  
9 or failure to act or failure to provide or arrange for further services, unless the  
10 damage or injury was caused by gross negligence or willful and wanton misconduct  
11 and in accordance with R.S. 29:735.3.1.

12 Section 2. R.S. 29:733(C)(Article 6) is hereby amended and reenacted and R.S.  
13 29:735.4 is hereby enacted to read as follows:

14 §733. Emergency Management Assistance Compact

15 \* \* \*

16 C. The state of Louisiana hereby agrees:

17 \* \* \*

18 Article 6. Officers or employees of a party state, to include political  
19 subdivisions, ~~and~~ local governments, and registered and credentialed volunteer  
20 organizations of that state, rendering aid in another state pursuant to this Compact  
21 shall be considered agents of the requesting state for tort liability and immunity  
22 purposes. No party state or its officers or employees, including local political  
23 subdivisions, ~~and~~ local governments, and registered and credentialed volunteer  
24 organizations rendering aid in another state pursuant to this Compact shall be liable  
25 on account of any act or omission in good faith on the part of such forces while so  
26 engaged or on account of the maintenance or use of any equipment or supplies in  
27 connection therewith. Good faith in this Article shall not include willful misconduct,  
28 gross negligence, or recklessness.

29 \* \* \*

1 §735.4. Registry of disaster volunteers; credentialing; leave from employment

2 A.(1) The Governor's Office of Homeland Security and Emergency  
3 Preparedness may establish a registry of volunteers pursuant to the provisions of this  
4 Section. Volunteers included in the registry may be deployed by either the  
5 Governor's Office of Homeland Security and Preparedness or the parish office of  
6 homeland security and emergency preparedness.

7 (2) The Governor's Office of Homeland Security and Emergency  
8 Preparedness may provide credentials for volunteers including the issuance of an  
9 identification card or badge identifying the person as a volunteer. The credentialing  
10 requirements may differ depending upon the type of volunteer work being provided  
11 and may include a background check of the volunteer.

12 (3) For purposes of this Section, the term "volunteer" shall mean an  
13 individual who donates labor through a nonprofit organization that is registered and  
14 approved by the state as a private, nonprofit, tax-exempt organization pursuant to 26  
15 U.S.C. 501(c)(3).

16 B. Volunteers registered and credentialed by the Governor's Office of  
17 Homeland Security and Emergency Preparedness or a parish office of homeland  
18 security and emergency preparedness:

19 (1) Shall be treated as unpaid agents of the state or parish for purposes of  
20 immunity from liability when they are in the course and scope of their deployment  
21 by the Governor's Office of Homeland Security and Emergency Preparedness or a  
22 parish office of homeland security and emergency preparedness.

23 (2) May make claims through the Governor's Office of Homeland Security  
24 and Emergency Preparedness or the parish office of homeland security and  
25 emergency preparedness as authorized by the mission and at the discretion of the  
26 director of the Governor's Office of Homeland Security and Emergency Preparedness  
27 if they suffer damage to their property or expend funds in order to accomplish an  
28 assigned mission.

1           (3) May share and receive state and parish commodities at the discretion of  
2           the director of the Governor's Office of Homeland Security and Emergency  
3           Preparedness pursuant to R.S. 29:726 and R.S. 33:4712.18.

4           C.(1) Any volunteer registered and credentialed by the Governor's Office of  
5           Homeland Security and Emergency Preparedness or a parish office of homeland  
6           security and emergency preparedness who is an officer or employee of the state, any  
7           political subdivision, or any other public agency of the state, and who is called into  
8           service by the Governor's Office of Homeland Security and Emergency Preparedness  
9           or a parish office of homeland security and emergency preparedness for a disaster,  
10          is entitled to a leave of absence from his employment for the time when he is  
11          serving, without loss of pay, seniority, status, efficiency rating, vacation, sick leave,  
12          or other benefits. The leave without loss of pay provided pursuant to the provisions  
13          of this Subsection shall not exceed a total of fifteen days in any calendar year and  
14          may be allowed only if the approved and credentialed volunteer agency provides  
15          proof of the volunteer service.

16          (2) The leave authorized pursuant to Paragraph (1) of this Subsection shall  
17          be allowed only if the employee returns to his public position the next scheduled  
18          work day after being relieved from emergency volunteer service, except that leave  
19          shall be allowed pursuant to Paragraph (1) of this Subsection if the employee is  
20          unable to return to work due to injury or circumstances beyond the employee's  
21          control, and the employee notifies the employer as soon as practicable, but prior to  
22          the next scheduled work day.

23          (3) A state agency or any political subdivision, or any other public agency  
24          of the state may hire a temporary employee to fill the vacancy created by a leave of  
25          absence allowed under Paragraph (1) of this Subsection.

26          (4) Upon returning from a leave of absence provided pursuant to the  
27          provisions of this Subsection, an employee is entitled to return to the same position  
28          and classification held before the leave of absence for the emergency volunteer  
29          service or to the position, including the geographic location of the position, and

1 classification that the employee would have been entitled to if he did not take a leave  
2 of absence for the emergency volunteer service.

3 (5) Notwithstanding the provisions of this Subsection, an employer shall not  
4 be required to provide leave pursuant to the provisions of this Subsection to more  
5 than twenty percent of the employer's employees on any given work day and shall  
6 not be required to allow leave pursuant to this Subsection for any employee  
7 designated as an essential employee. For the purposes of this Paragraph, "essential  
8 employee" means an employee who the employer deems to be essential to the  
9 operation of the employer's daily enterprise and whose absence would likely cause  
10 the employer to suffer economic injury, or whose duties include assisting in disaster  
11 recovery for the employer.

12 D.(1) Any volunteer registered and credentialed by the Governor's Office of  
13 Homeland Security and Emergency Preparedness or a parish office of homeland  
14 security and emergency preparedness who is employed by a private employer and  
15 who is called into service by the Governor's Office of Homeland Security and  
16 Emergency Preparedness or a parish office of homeland security and emergency  
17 preparedness for a disaster is entitled to a leave of absence from his employment,  
18 other than employment of a temporary nature, for the time when he is serving. The  
19 leave allowed pursuant to this Section shall not exceed a total of fifteen days in any  
20 calendar year and may be allowed only if the volunteer provides sufficient proof of  
21 the volunteer service and is certified by the volunteer agency.

22 (2) The leave of absence allowed pursuant to this Section shall be construed  
23 as an absence with leave and without pay and shall not affect the employee's rights  
24 to vacation, sick leave, bonus, advancement, or other employment benefits or  
25 advantages relating to and normally to be expected for the employee's particular  
26 employment.

27 (3) The leave of absence pursuant to this Section shall be allowed only if the  
28 employee returns to his employment as soon as practicable after being relieved from  
29 emergency volunteer service.



1           (b) The Governor's Office of Homeland Security and Emergency  
 2           Preparedness may coordinate the sharing of equipment between the public and  
 3           private entities in order to meet the needs of an emergency or disaster pursuant to  
 4           R.S. 29:724.

5   \*       \*       \*

6           Section 4. R.S. 42:1102(18)(b)(iii) is hereby enacted to read as follows:

7           §1102. Definitions

8                   Unless the context clearly indicates otherwise, the following words and  
 9           terms, when used in this Chapter, shall have the following meanings:

10   \*       \*       \*

11                   (18)

12   \*       \*       \*

13                   (b) However, "public employee" shall not mean a person whose public  
 14           service is limited to the following:

15   \*       \*       \*

16                   (iii) A volunteer as defined in R.S. 29:735.3.1.

17   \*       \*       \*

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 358 Original   2018 Regular Session   Foil

**Abstract:** Authorizes a registry and credentialing of volunteers in disaster or emergency response, provides limitations of liability for volunteers, and adds provisions governing leave from employment for volunteers deployed on a mission.

Present law provides a limitation of liability for the National Voluntary Organizations Active in Disaster or its member organizations who gratuitously render disaster relief or recovery services.

Proposed law extends present law to other volunteer agencies.

Present law provides for the Emergency Management Assistance Compact which, in part, provides that officers or employees of a state, political subdivisions, or local governments rendering aid to another state pursuant to the compact shall be considered agents of the requesting state for purpose of liability and immunity.

Proposed law extends the application of present law to registered and credentialed volunteer organizations.

Proposed law authorizes the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) to establish a registry of volunteers to be deployed either by GOHSEP or the parish office of homeland security and emergency preparedness. Defines "volunteer" and authorizes GOHSEP to provide credentials, including identification cards or badges for volunteers.

Proposed law provides that registered and credentialed volunteers shall be treated as unpaid agents of the state or parish for purposes of liability when in the course and scope of their deployment. Authorizes these volunteers to make claims if they suffer damage to their property or expend funds to accomplish an assigned mission, and to receive state or parish commodities.

Proposed law provides for a leave of absence from employment, both public and private, for volunteers serving. Proposed law provides for leave without loss of pay up to 15 days per calendar year for public sector employees, and provides for leave without pay up to 15 days per calendar year for private sector employees. Provides for additional restrictions and criteria in this regard.

Proposed law further provides that GOHSEP may coordinate the sharing of equipment between public and private entities.

(Amends R.S. 9:2793.8, R.S. 29:733(C)(Art. 6), and R.S. 33:4712.18(A)(3); Adds R.S. 29:735.4 and R.S. 42:1102(18)(b)(iii))