
DIGEST

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HB 388 Reengrossed

2018 Regular Session

Hodges

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 volunteer firefighters.

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, except for acts involving gross negligence or willful and wanton misconduct.

Proposed law adds a similar limitation of liability applicable to other volunteers.

Present law provides that a firefighter employed by this state shall not be denied leave, work-related benefits, or employment for absenting himself from his employment for the purpose of emergency response.

Proposed law provides that no volunteer firefighter shall be denied leave, work-related benefits, or employment for absenting himself from his public employment for the purpose of emergency response not to exceed five days per declared disaster.

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. Requires, at a minimum, a check of volunteers on the state sex offender and child predator registry. A federal and state background check may be required in some circumstances, depending upon the mission of the volunteer. Requires the costs of the background check to be paid by the volunteer or his affiliated agency.

Proposed law provides that registered and credentialed volunteers shall be treated as unpaid agents

of the state or parish when acting in the course and scope of their deployment. Further requires them to make every effort when deployed to coordinate with local officials, and allows them to receive certain commodities at the discretion of the director of GOHSEP.

Proposed law further provides that GOHSEP may coordinate the sharing of equipment between public and private entities to meet the needs of an emergency or disaster.

(Amends R.S. 9:2793.8, R.S. 23:893, 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))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Modify the proposed limitation of liability to apply to volunteers, instead of volunteer agencies gratuitously rendering disaster relief or recovery services.
2. Remove proposed law authorizing 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.
3. Require volunteers to make every effort to coordinate with local officials.
4. With respect to proposed law protections for volunteers who take leave from employment:
 - (a) Provide an exception from proposed law for peace officers.
 - (b) Change the proposed law protections applicable to public officers and employees to leave without pay.
 - (c) Change the proposed law protections applicable to private employees to authorize leave not to exceed five days, instead of fifteen days.
 - (d) Provide that no volunteer firefighter shall be denied leave, work-related benefits, or employment for absenting himself from the volunteer fire department for the purpose of emergency response not to exceed five days per declared disaster.
5. Modify the definition of "volunteer" to include individuals who donate labor through a nonprofit organization registered and approved by the state as a private, nonprofit, tax-exempt organization pursuant to 26 U.S.C. 501(c), instead of 26 U.S.C. 501(c)(3).

The House Floor Amendments to the engrossed bill:

1. Remove proposed law provisions applicable to volunteers who take leave from their public or private employment, except with respect to firefighters who take leave from public employment.
2. Clarify that a volunteer may be required to submit a copy of the results of a federal or state background check.
3. Provide that volunteers registered and credentialed pursuant to proposed law shall be treated as unpaid agents of the state or parish when in the course and scope of their deployment, and remove the qualification that they are to be treated as unpaid agents for purposes of liability only.
4. Make technical amendments.