

2018 Regular Session

HOUSE BILL NO. 388

BY REPRESENTATIVES HODGES AND FOIL

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 for background checks; to provide a limitation of liability for
8 volunteers; to provide for applicability; to provide limitations; and to provide for
9 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~~ Services rendered by National Voluntary
13 Organizations Active in Disaster and other volunteers; 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
21 result of any act or omission in rendering assistance, relief, or recovery services or
22 as a result of any act or failure to act or failure to provide or arrange for further

1 services, unless the damage or injury was caused by gross negligence or willful and
2 wanton misconduct.

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

10 Section 2. R.S. 29:733(C)(Article 6) is hereby amended and reenacted and R.S.
11 29:735.4 is hereby enacted to read as follows:

12 §733. Emergency Management Assistance Compact

13 * * *

14 C. The state of Louisiana hereby agrees:

15 * * *

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

28 * * *

1 §735.4. Registry of disaster volunteers; credentialing

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 Emergency Preparedness or the parish
6 office of 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 shall include, at a minimum, a check on the state sex offender and child predator
12 registry pursuant to R.S. 15:542.1.5 and the Dru Sjodin National Sex Offender public
13 website. Depending upon the mission of the volunteer, the volunteer may be
14 required to submit a copy of the results of a federal and state background check.
15 Whether or not a federal and state background check is required will be expressly
16 identified in the memorandum of understanding between the volunteer agency and
17 the deploying office of homeland security and determined on the basis of public
18 safety. If a federal and state background check is required, the volunteer must be
19 fingerprinted and fingerprints shall be forwarded by the bureau to the Federal Bureau
20 of Investigation (FBI) for a national criminal history record check. FBI records may
21 be used to screen the background of an applicant. All records in the state repository
22 shall be released to include arrests, convictions, and expunged information. The
23 costs of background checks shall be borne either by the volunteer or its affiliated
24 volunteer agency.

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

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

4 (1) Shall be treated as unpaid agents of the state or parish when they are in
5 the course and scope of their deployment by the Governor's Office of Homeland
6 Security and Emergency Preparedness or a parish office of homeland security and
7 emergency preparedness.

8 (2) Shall make every effort when deployed to coordinate with local officials.

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

12 C. Volunteers in this Section shall not be considered public employees and
13 thus shall not be subject to the provisions of Title 42.

14 D. The Governor's Office of Homeland Security and Emergency
15 Preparedness may promulgate rules pursuant to the Administrative Procedure Act to
16 implement the provisions of this Section.

17 Section 3. R.S. 33:4712.18(A)(3) is hereby amended and reenacted to read as
18 follows:

19 §4712.18. Sharing of equipment between public entities

20 A.

21 * * *

22 (3)(a) When an emergency situation is declared and public entities need to
23 share equipment, the provisions of Paragraph (1) of this Subsection are not required,
24 provided the public entities share the equipment in good faith relative to the
25 emergency situation.

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

30 * * *

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

2 §1102. Definitions

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

5 * * *

6 (18)

7 * * *

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

10 * * *

11 (iii) Volunteering as described in R.S. 29:735.3.1(A).

12 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____