



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4111

by Rep. Lisa M. Dugan

SYNOPSIS AS INTRODUCED:

| | |
|---------------------------------|-------------------------|
| 20 ILCS 3305/10 | from Ch. 127, par. 1060 |
| 20 ILCS 3305/20 | from Ch. 127, par. 1070 |
| 20 ILCS 3305/23 new | |
| 55 ILCS 5/Div. 3-16 heading new | |
| 55 ILCS 5/3-16001 new | |
| 65 ILCS 5/Div. 10-6 heading new | |
| 65 ILCS 5/10-6-1 new | |

Amends the Illinois Emergency Management Agency Act. Removes provisions concerning the employment status of disaster volunteers for purposes of worker's compensation. Provides that specified sworn disaster volunteers who assist the Illinois Emergency Management Agency without compensation, other than reimbursement for travel, lodging, or meals, shall be considered an employee of the Agency under the Workers' Compensation Act or Workers' Occupational Diseases Act for purposes of any claims related to the assistance provided. Further provides that a specified delegate may administer a required oath to personnel. Sets requirements concerning the filing of the oath. Makes other changes. Amends the Counties Code and the Illinois Municipal Code. Provides that specified sworn disaster volunteers who assist an emergency services and disaster agency may be covered by the county or municipality, as applicable, if it has elected to provide coverage, as an employee under the Workers' Compensation Act or Workers' Occupational Diseases Act for purposes of any claim related to the assistance provided. Effective immediately.

LRB097 17731 KMW 62945 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Emergency Management Agency Act is
5 amended by changing Sections 10 and 20 and by adding Section 23
6 as follows:

7 (20 ILCS 3305/10) (from Ch. 127, par. 1060)

8 Sec. 10. Emergency Services and Disaster Agencies.

9 (a) Each political subdivision within this State shall be
10 within the jurisdiction of and served by the Illinois Emergency
11 Management Agency and by an emergency services and disaster
12 agency responsible for emergency management programs. A
13 township, if the township is in a county having a population of
14 more than 2,000,000, must have approval of the county
15 coordinator before establishment of a township emergency
16 services and disaster agency.

17 (b) Unless multiple county emergency services and disaster
18 agency consolidation is authorized by the Illinois Emergency
19 Management Agency with the consent of the respective counties,
20 each county shall maintain an emergency services and disaster
21 agency that has jurisdiction over and serves the entire county,
22 except as otherwise provided under this Act and except that in
23 any county with a population of over 3,000,000 containing a

1 municipality with a population of over 500,000 the jurisdiction
2 of the county agency shall not extend to the municipality when
3 the municipality has established its own agency.

4 (c) Each municipality with a population of over 500,000
5 shall maintain an emergency services and disaster agency which
6 has jurisdiction over and serves the entire municipality. A
7 municipality with a population less than 500,000 may establish,
8 by ordinance, an agency or department responsible for emergency
9 management within the municipality's corporate limits.

10 (d) The Governor shall determine which municipal
11 corporations, other than those specified in paragraph (c) of
12 this Section, need emergency services and disaster agencies of
13 their own and require that they be established and maintained.
14 The Governor shall make these determinations on the basis of
15 the municipality's disaster vulnerability and capability of
16 response related to population size and concentration. The
17 emergency services and disaster agency of a county or township,
18 shall not have a jurisdiction within a political subdivision
19 having its own emergency services and disaster agency, but
20 shall cooperate with the emergency services and disaster agency
21 of a city, village or incorporated town within their borders.
22 The Illinois Emergency Management Agency shall publish and
23 furnish a current list to the municipalities required to have
24 an emergency services and disaster agency under this
25 subsection.

26 (e) Each municipality that is not required to and does not

1 have an emergency services and disaster agency shall have a
2 liaison officer designated to facilitate the cooperation and
3 protection of that municipal corporation with the county
4 emergency services and disaster agency in which it is located
5 in the work of disaster mitigation, preparedness, response, and
6 recovery.

7 (f) The principal executive officer or his or her designee
8 of each political subdivision in the State shall annually
9 notify the Illinois Emergency Management Agency of the manner
10 in which the political subdivision is providing or securing
11 emergency management, identify the executive head of the agency
12 or the department from which the service is obtained, or the
13 liaison officer in accordance with paragraph (d) of this
14 Section and furnish additional information relating thereto as
15 the Illinois Emergency Management Agency requires.

16 (g) Each emergency services and disaster agency shall
17 prepare an emergency operations plan for its geographic
18 boundaries that complies with planning, review, and approval
19 standards promulgated by the Illinois Emergency Management
20 Agency. The Illinois Emergency Management Agency shall
21 determine which jurisdictions will be required to include
22 earthquake preparedness in their local emergency operations
23 plans.

24 (h) The emergency services and disaster agency shall
25 prepare and distribute to all appropriate officials in written
26 form a clear and complete statement of the emergency

1 responsibilities of all local departments and officials and of
2 the disaster chain of command.

3 (i) Each emergency services and disaster agency shall have
4 a Coordinator who shall be appointed by the principal executive
5 officer of the political subdivision in the same manner as are
6 the heads of regular governmental departments. If the political
7 subdivision is a county and the principal executive officer
8 appoints the sheriff as the Coordinator, the sheriff may, in
9 addition to his or her regular compensation, receive
10 compensation at the same level as provided in Section 3 of "An
11 Act in relation to the regulation of motor vehicle traffic and
12 the promotion of safety on public highways in counties",
13 approved August 9, 1951, as amended. The Coordinator shall have
14 direct responsibility for the organization, administration,
15 training, and operation of the emergency services and disaster
16 agency, subject to the direction and control of that principal
17 executive officer. Each emergency services and disaster agency
18 shall coordinate and may perform emergency management
19 functions within the territorial limits of the political
20 subdivision within which it is organized as are prescribed in
21 and by the State Emergency Operations Plan, and programs,
22 orders, rules and regulations as may be promulgated by the
23 Illinois Emergency Management Agency and by local ordinance
24 and, in addition, shall conduct such functions outside of those
25 territorial limits as may be required under mutual aid
26 agreements and compacts as are entered into under subparagraph

1 (5) of paragraph (c) of Section 6.

2 (j) In carrying out the provisions of this Act, each
3 political subdivision may enter into contracts and incur
4 obligations necessary to place it in a position effectively to
5 combat the disasters as are described in Section 4, to protect
6 the health and safety of persons, to protect property, and to
7 provide emergency assistance to victims of those disasters. If
8 a disaster occurs, each political subdivision may exercise the
9 powers vested under this Section in the light of the exigencies
10 of the disaster and, excepting mandatory constitutional
11 requirements, without regard to the procedures and formalities
12 normally prescribed by law pertaining to the performance of
13 public work, entering into contracts, the incurring of
14 obligations, the employment of temporary workers, the rental of
15 equipment, the purchase of supplies and materials, and the
16 appropriation, expenditure, and disposition of public funds
17 and property.

18 (k) (Blank)

19 ~~Volunteers who, while engaged in a disaster, an exercise,~~
20 ~~training related to the emergency operations plan of the~~
21 ~~political subdivision, or a search and rescue team response to~~
22 ~~an occurrence or threat of injury or loss of life that is~~
23 ~~beyond local response capabilities, suffer disease, injury or~~
24 ~~death, shall, for the purposes of benefits under the Workers'~~
25 ~~Compensation Act or Workers' Occupational Diseases Act only, be~~
26 ~~deemed to be employees of the State, if: (1) the claimant is a~~

1 ~~duly qualified and enrolled (sworn in) as a volunteer of the~~
2 ~~Illinois Emergency Management Agency or an emergency services~~
3 ~~and disaster agency accredited by the Illinois Emergency~~
4 ~~Management Agency, and (2) if: (i) the claimant was~~
5 ~~participating in a disaster as defined in Section 4 of this~~
6 ~~Act, (ii) the exercise or training participated in was~~
7 ~~specifically and expressly approved by the Illinois Emergency~~
8 ~~Management Agency prior to the exercise or training, or (iii)~~
9 ~~the search and rescue team response was to an occurrence or~~
10 ~~threat of injury or loss of life that was beyond local response~~
11 ~~capabilities and was specifically and expressly approved by the~~
12 ~~Illinois Emergency Management Agency prior to the~~
13 ~~search and rescue team response. The computation of benefits~~
14 ~~payable under either of those Acts shall be based on the income~~
15 ~~commensurate with comparable State employees doing the same~~
16 ~~type work or income from the person's regular employment,~~
17 ~~whichever is greater.~~

18 ~~Volunteers who are working under the direction of an~~
19 ~~emergency services and disaster agency accredited by the~~
20 ~~Illinois Emergency Management Agency, pursuant to a plan~~
21 ~~approved by the Illinois Emergency Management Agency (i) during~~
22 ~~a disaster declared by the Governor under Section 7 of this~~
23 ~~Act, or (ii) in circumstances otherwise expressly approved by~~
24 ~~the Illinois Emergency Management Agency, shall be deemed~~
25 ~~exclusively employees of the State for purposes of Section 8(d)~~
26 ~~of the Court of Claims Act, provided that the Illinois~~

1 ~~Emergency Management Agency may, in coordination with the~~
2 ~~emergency services and disaster agency, audit implementation~~
3 ~~for compliance with the plan.~~

4 (1) (Blank) ~~If any person who is entitled to receive~~
5 ~~benefits through the application of this Section receives, in~~
6 ~~connection with the disease, injury or death giving rise to~~
7 ~~such entitlement, benefits under an Act of Congress or federal~~
8 ~~program, benefits payable under this Section shall be reduced~~
9 ~~to the extent of the benefits received under that other Act or~~
10 ~~program.~~

11 (m) (1) Prior to conducting an exercise, the principal
12 executive officer of a political subdivision or his or her
13 designee shall provide area media with written
14 notification of the exercise. The notification shall
15 indicate that information relating to the exercise shall
16 not be released to the public until the commencement of the
17 exercise. The notification shall also contain a request
18 that the notice be so posted to ensure that all relevant
19 media personnel are advised of the exercise before it
20 begins.

21 (2) During the conduct of an exercise, all messages,
22 two-way radio communications, briefings, status reports,
23 news releases, and other oral or written communications
24 shall begin and end with the following statement: "This is
25 an exercise message".

26 (Source: P.A. 94-733, eff. 4-27-06.)

1 (20 ILCS 3305/20) (from Ch. 127, par. 1070)

2 Sec. 20. Emergency Management Agency; personnel; oath.
3 Each person, whether compensated or noncompensated, who serves
4 ~~is appointed to serve~~ in any capacity in the Illinois Emergency
5 Management Agency or any ~~an~~ emergency services and disaster
6 agency, shall, before entering upon his or her duties, take an
7 oath, in writing, before the Director of the Illinois Emergency
8 Management Agency or his or her delegate, ~~or~~ before the
9 coordinator of that emergency services and disaster agency or
10 his or her delegate, or before other persons authorized to
11 administer oaths in this State. The ~~, which~~ oath shall be filed
12 with the entity ~~Director or with the coordinator of the~~
13 ~~emergency services and disaster agency~~ with which the person he
14 ~~or she~~ shall serve. An oath on file with the emergency services
15 and disaster agency shall be considered on file with the
16 Illinois Emergency Management Agency when the Illinois
17 Emergency Management Agency has requested the person's
18 assistance in a State disaster response as long as a copy is
19 provided to the Illinois Emergency Management Agency upon
20 request. The ~~and which~~ oath shall be substantially as follows:

21 "I, _____, do solemnly swear (or affirm) that I
22 will support and defend and bear true faith and allegiance to
23 the Constitution of the United States and the Constitution of
24 the State of Illinois, and the territory, institutions and
25 facilities thereof, both public and private, against all

1 enemies, foreign and domestic; that I take this obligation
2 freely, without any mental reservation or purpose of evasion;
3 and that I will well and faithfully discharge the duties upon
4 which I am about to enter. And I do further swear (or affirm)
5 that I do not advocate, nor am I, nor have I been a member of
6 any political party or organization that advocates the
7 overthrow of the government of the United States or of this
8 State by force or violence; and that during such time as I am
9 affiliated with the (name of political subdivision), I will not
10 advocate nor become a member of any political party or
11 organization that advocates the overthrow of the government of
12 the United States or of this State by force or violence."

13 (Source: P.A. 92-73, eff. 1-1-02.)

14 (20 ILCS 3305/23 new)

15 Sec. 23. Disaster volunteers. A volunteer who is sworn in,
16 pursuant to Section 20 of this Act, by the Illinois Emergency
17 Management Agency or at the request of the Illinois Emergency
18 Management Agency to assist the Agency without compensation,
19 other than reimbursement for travel, lodging, or meals, during
20 a disaster as defined by Section 4 of this Act or a related
21 training exercise, is considered an employee of the Agency
22 under the Workers' Compensation Act or Workers' Occupational
23 Diseases Act for purposes of any claims under either Act
24 related to the assistance provided. The Illinois Emergency
25 Management Agency shall promulgate rules under the

1 Administrative Procedure Act regarding the eligibility
2 requirements and claims process.

3 Section 10. The Counties Code is amended by adding the
4 heading of Division 16 of Article 3 and Section 3-16001 as
5 follows:

6 (55 ILCS 5/Div. 3-16 heading new)

7 Division 3-16. Disaster Volunteers.

8 (55 ILCS 5/3-16001 new)

9 Sec. 3-16001. Disaster service volunteer claims. An
10 individual who is sworn in, pursuant to Section 20 of the
11 Illinois Emergency Management Agency Act, by an emergency
12 services and disaster agency to assist that agency during a
13 disaster as defined by Section 4 of the Illinois Emergency
14 Management Agency Act or a related training exercise, may be
15 covered by the county, if it has elected to provide coverage,
16 as an employee under the Workers' Compensation Act or Workers'
17 Occupational Diseases Act for purposes of any claim under
18 either Act related to the assistance provided. If the county
19 has elected to provide coverage, then the county shall
20 promulgate rules on the eligibility requirements and claims
21 process.

22 Section 15. The Illinois Municipal Code is amended by

1 adding the heading of Division 6 of Article 10 and Section
2 10-6-1 as follows:

3 (65 ILCS 5/Div. 10-6 heading new)

4 Division 10-6. Disaster Volunteers.

5 (65 ILCS 5/10-6-1 new)

6 Sec. 10-6-1. Disaster service volunteer claims. An
7 individual who is sworn in, pursuant to Section 20 of the
8 Illinois Emergency Management Agency Act, by an emergency
9 services and disaster agency to assist that agency during a
10 disaster as defined by Section 4 of the Illinois Emergency
11 Management Agency Act or a related training exercise, may be
12 covered by the municipality, if it has elected to provide
13 coverage, as an employee under the Workers' Compensation Act or
14 Workers' Occupational Diseases Act for purposes of any claim
15 under either Act related to the assistance provided. If the
16 municipality has elected to provide coverage, then the
17 municipality shall promulgate rules on the eligibility
18 requirements and claims process.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.