

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

474M0478

SENATE BILL NO. 109

Introduced by: Senators Duniphan, Abdallah, and Bartling and Representatives Rave, Dennert, and Hennies

1 FOR AN ACT ENTITLED, An Act to provide for statewide mutual aid requests among certain
2 public agencies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Assistance," the provision of personnel, equipment, expertise, supplies, or other
6 products or services excluding financial assistance from the state;

7 (2) "Covered entity," any other private or nonprofit entity that provides emergency
8 functions as included in subdivision 33-15-1(4);

9 (3) "Deploying public agency," the public agency receiving a request for assistance or
10 providing assistance;

11 (4) "Public agency," the state and any agency thereof; the United States and any agency
12 thereof; any county, municipality, township, or other political subdivision of the
13 state; any state tribal government.

14 Section 2. In addition to the provisions of chapter 1-24 and chapter 33-15, any public agency
15 or covered entity may request assistance from any other public agency or covered entity in order



1 to preserve and protect the public health, safety, and welfare. The requesting public agency and
2 the deploying public agency shall utilize the Incident Command System of the National Incident
3 Management System.

4 Section 3. Any public agency or covered entity requesting assistance under this Act may do
5 so through an oral or written request to a representative of the deploying public agency or
6 covered entity to which the request is directed who is authorized to control the items of
7 assistance being requested.

8 Section 4. Any deploying public agency or covered entity receiving a request for assistance
9 under this Act may provide the requested assistance.

10 Section 5. Any deploying public agency or covered entity that provides assistance pursuant
11 to a request under this Act may withdraw that assistance at any time.

12 Section 6. All personnel deployed by the deploying public agency or covered entity retain
13 all authority of the deploying public agency or covered entity and are entitled to act with all
14 authority available to similarly situated personnel of the public agency or covered entity
15 receiving assistance.

16 Section 7. Any deploying public agency or covered entity involved in the incident may
17 request reimbursement for its actual expenses. If reimbursement is requested, the deploying
18 public agencies or covered entities involved shall agree upon the actual, reasonable expenses
19 involved.

20 Section 8. Any deploying public agency or covered entity providing assistance in response
21 to a request under this Act shall maintain ownership of and liability for all assistance provided,
22 including:

- 23 (1) Worker's compensation coverage for personnel employed, authorized, or designated
24 to act by or on behalf of the deploying public agency or covered entity;

1 (2) Insurance coverage for employees, agents, or volunteers of the deploying public
2 agency or covered entity;

3 (3) Property; and

4 (4) Personnel benefits.

5 Section 9. No person or public agency or covered entity may be held civilly liable for actions
6 in requesting or providing assistance under this Act except for acts of willful misconduct or
7 gross negligence. Nothing in this Act constitutes a waiver or abrogation of sovereign immunity
8 or any statutory immunity.

9 Section 10. Nothing in this Act limits or supercedes the provisions of chapter 1-24 and
10 chapter 33-15. The provisions of this Act may be used contemporaneously with any agreement
11 under chapters 1-24 or 33-15.