

110TH CONGRESS
1ST SESSION

H. R. 4158

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify and codify the authority of the Administrator of the Federal Emergency Management Agency to administer the National Urban Search and Rescue Response System for Federal response to all hazards.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2007

Mr. COHEN (for himself, Ms. NORTON, and Mr. GRAVES) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to clarify and codify the authority of the Administrator of the Federal Emergency Management Agency to administer the National Urban Search and Rescue Response System for Federal response to all hazards.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Urban Search
5 and Rescue Response System Act of 2007”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to clarify and codify the
3 authority of the Administrator of the Federal Emergency
4 Management Agency to administer the National Urban
5 Search and Rescue Response System for Federal response
6 to all hazards.

7 **SEC. 3. NATIONAL URBAN SEARCH AND RESCUE RESPONSE**
8 **SYSTEM.**

9 (a) IN GENERAL.—Title III of the Robert T. Stafford
10 Disaster Relief and Emergency Assistance Act (42 U.S.C.
11 5141 et seq.) is amended by adding at the end the fol-
12 lowing:

13 **“SEC. 327. NATIONAL URBAN SEARCH AND RESCUE RE-**
14 **SPONSE SYSTEM.**

15 “(a) DEFINITIONS.—In this section, the following
16 definitions apply:

17 “(1) ADMINISTRATOR.—The term ‘Adminis-
18 trator’ means the Administrator of the Federal
19 Emergency Management Agency.

20 “(2) AGENCY.—The term ‘Agency’ means the
21 Federal Emergency Management Agency.

22 “(3) HAZARD.—The term ‘hazard’ has the
23 meaning given that term by section 602.

24 “(4) PARTICIPATING AGENCY.—The term ‘par-
25 ticipating agency’ means a State or local govern-
26 ment, nonprofit organization, or private organization

1 that has executed an agreement with a sponsoring
2 agency to participate in the System.

3 “(5) SPONSORING AGENCY.—The term ‘spon-
4 soring agency’ means a State or local government
5 that is the sponsor of a task force designated by the
6 Administrator to participate in the System.

7 “(6) SYSTEM.—The term ‘System’ means the
8 National Urban Search and Rescue Response Sys-
9 tem to be administered under this section.

10 “(7) SYSTEM MEMBER.—The term ‘System
11 member’ means an individual who is not a regular
12 full-time employee of the Federal Government, who
13 serves on a task force or on a System management
14 or other technical team.

15 “(8) TASK FORCE.—The term ‘task force’
16 means an urban search and rescue team designated
17 by the Administrator to participate in the System.

18 “(b) GENERAL AUTHORITY.—Subject to the require-
19 ments of this section, the Administrator shall continue to
20 administer the emergency response system known as the
21 ‘National Urban Search and Rescue Response System’.

22 “(c) FUNCTIONS.—In administering the System, the
23 Administrator shall provide for a national network of
24 standardized search and rescue resources to assist States
25 and local governments in responding to hazards.

1 “(d) TASK FORCES.—

2 “(1) DESIGNATION.—The Administrator shall
3 designate task forces to participate in the System.
4 The Administrator shall determine the criteria for
5 such participation.

6 “(2) SPONSORING AGENCIES.—Each task force
7 shall have a sponsoring agency. The Administrator
8 shall enter into an agreement with the sponsoring
9 agency of each task force with respect to the partici-
10 pation of the task force in the System.

11 “(3) COMPOSITION.—

12 “(A) PARTICIPATING AGENCIES.—A task
13 force may include, at the discretion of the spon-
14 soring agency of the task force, one or more
15 participating agencies. The sponsoring agency
16 of a task force shall enter into an agreement
17 with each participating agency of the task force
18 with respect to the participation of the partici-
19 pating agency on the task force.

20 “(B) OTHER INDIVIDUALS.—A task force
21 may also include, at the discretion of the spon-
22 soring agency of the task force, other individ-
23 uals not otherwise associated with the spon-
24 soring agency or a participating agency of the
25 task force. The sponsoring agency of a task

1 force may enter into a separate agreement with
2 each such individual with respect to the partici-
3 pation of the individual on the task force.

4 “(e) MANAGEMENT AND TECHNICAL TEAMS.—The
5 Administrator shall maintain such management teams and
6 other technical teams as the Administrator determines are
7 necessary to administer the System.

8 “(f) APPOINTMENT OF SYSTEM MEMBERS INTO
9 FEDERAL SERVICE.—

10 “(1) IN GENERAL.—The Administrator may ap-
11 point a System member into Federal service for a
12 period of service to provide for the participation of
13 the System member in exercises, preincident staging,
14 major disaster and emergency response activities,
15 and training events sponsored or sanctioned by the
16 Administrator.

17 “(2) NONAPPLICABILITY OF CERTAIN CIVIL
18 SERVICE LAWS.—The Administrator may make ap-
19 pointments under paragraph (1) without regard to
20 the provisions of title 5, United States Code, gov-
21 erning appointments in the competitive service.

22 “(3) RELATIONSHIP TO OTHER AUTHORI-
23 TIES.—The authority of the Administrator to make
24 appointments under this subsection shall not affect

1 any other authority of the Administrator under this
2 Act.

3 “(4) LIMITATION.—A System member who is
4 appointed into Federal service under paragraph (1)
5 shall not be deemed an employee of the United
6 States for purposes other than those specifically set
7 forth in this section.

8 “(g) COMPENSATION.—

9 “(1) PAY OF SYSTEM MEMBERS.—Subject to
10 such terms and conditions as the Administrator may
11 impose by regulation, the Administrator shall make
12 payments to the sponsoring agency of a task force—

13 “(A) to reimburse each employer of a Sys-
14 tem member on the task force for compensation
15 paid by the employer to the System member for
16 any period during which the System member is
17 appointed into Federal service under subsection
18 (f)(1); and

19 “(B) as appropriate, in lieu of providing
20 reimbursement to an employer of a System
21 member on the task force under subparagraph
22 (A), to make payments directly to the System
23 member for any period during which the Sys-
24 tem member is appointed into Federal service
25 under subsection (f)(1).

1 “(2) REIMBURSEMENT FOR EMPLOYEES FILL-
2 ING POSITIONS OF SYSTEM MEMBERS.—

3 “(A) IN GENERAL.—Subject to such terms
4 and conditions as the Administrator may im-
5 pose by regulation, the Administrator shall
6 make payments to the sponsoring agency of a
7 task force to reimburse each employer of a Sys-
8 tem member on the task force for compensation
9 paid by the employer to an employee filling a
10 position normally filled by the System member
11 for any period during which the System mem-
12 ber is appointed into Federal service under sub-
13 section (f)(1).

14 “(B) LIMITATION.—Costs incurred by an
15 employer shall be eligible for reimbursement
16 under subparagraph (A) only to the extent that
17 the costs are in excess of the costs that would
18 have been incurred by the employer had the
19 System member not been appointed into Fed-
20 eral service under subsection (f)(1).

21 “(3) METHOD OF PAYMENT.—A System mem-
22 ber shall not be entitled to pay directly from the
23 Agency for a period during which the System mem-
24 ber is appointed into Federal service under sub-
25 section (f)(1).

1 “(h) PERSONAL INJURY, ILLNESS, DISABILITY, OR
2 DEATH.—

3 “(1) IN GENERAL.—A System member who is
4 appointed into Federal service under subsection
5 (f)(1) and who suffers personal injury, illness, dis-
6 ability, or death as a result of a personal injury sus-
7 tained while acting in the scope of such appointment
8 shall, for the purposes of subchapter I of chapter 81
9 of title 5, United States Code, be treated as though
10 the member were an employee (as defined by section
11 8101 of that title) who had sustained the injury in
12 the performance of duty.

13 “(2) ELECTION OF BENEFITS.—

14 “(A) IN GENERAL.—If a System member
15 (or, in the case of the death of the System
16 member, the System member’s dependent) is
17 entitled—

18 “(i) under paragraph (1) to receive
19 benefits under subchapter I of chapter 81
20 of title 5, United States Code, by reason of
21 personal injury, illness, disability, or death,
22 and

23 “(ii) to receive benefits from a State
24 or local government by reason of the same
25 personal injury, illness, disability, or death,

1 the System member or dependent shall elect to
2 receive either the benefits referred to in clause
3 (i) or (ii).

4 “(B) DEADLINE.—A System member or
5 dependent shall make an election of benefits
6 under subparagraph (A) not later than one year
7 after the date of the personal injury, illness,
8 disability, or death that is the reason for the
9 benefits or until such later date as the Sec-
10 retary of Labor may allow for reasonable cause
11 shown.

12 “(C) EFFECT OF ELECTION.—An election
13 of benefits made under this paragraph is irrev-
14 ocable unless otherwise provided by law.

15 “(3) REIMBURSEMENT FOR STATE OR LOCAL
16 BENEFITS.—Subject to such terms and conditions as
17 the Administrator may impose by regulation, in the
18 event that a System member or dependent elects
19 benefits from a State or local government under
20 paragraph (2)(A), the Administrator shall reimburse
21 the State or local government for the value of those
22 benefits.

23 “(i) LIABILITY.—A System member appointed into
24 Federal service under subsection (f)(1), while acting with-
25 in the scope of the appointment, is deemed an employee

1 of the United States under section 1346(b) of title 28,
2 United States Code, and chapter 171 of that title, relating
3 to tort claims procedure.

4 “(j) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—
5 With respect to a System member who is not a regular
6 full-time employee of a sponsoring agency or participating
7 agency, the following terms and conditions apply:

8 “(1) Service as a System member shall be
9 deemed ‘service in the uniformed services’ for pur-
10 poses of chapter 43 of title 38, United States Code,
11 relating to employment and reemployment rights of
12 individuals who have performed service in the uni-
13 formed services (regardless of whether the individual
14 receives compensation for such participation). All
15 rights and obligations of such persons and proce-
16 dures for assistance, enforcement, and investigation
17 shall be as provided for in such chapter.

18 “(2) Preclusion of giving notice of service by
19 necessity of appointment under this section shall be
20 deemed preclusion by ‘military necessity’ for pur-
21 poses of section 4312(b) of title 38, United States
22 Code, pertaining to giving notice of absence from a
23 position of employment. A determination of such ne-
24 cessity shall be made by the Administrator and shall
25 not be subject to judicial review.

1 “(k) LICENSES AND PERMITS.—If a System member
2 holds a valid license, certificate, or other permit issued by
3 any State or other governmental jurisdiction evidencing
4 the member’s qualifications in any professional, mechan-
5 ical, or other skill or type of assistance required by the
6 System, the System member shall be deemed to be per-
7 forming a Federal activity when rendering aid involving
8 such skill or assistance during a period of appointment
9 into Federal service under subsection (f)(1).

10 “(l) ADVISORY COMMITTEE.—

11 “(1) IN GENERAL.—The Administrator shall es-
12 tablish and maintain an advisory committee to pro-
13 vide expert recommendations to the Administrator in
14 order to assist the Administrator in administering
15 the System.

16 “(2) COMPOSITION.—The advisory committee
17 shall be composed of members from geographically
18 diverse areas, and shall include—

19 “(A) the chief officer or senior executive
20 from at least 3 sponsoring agencies;

21 “(B) the senior emergency manager from
22 at least 2 States that include sponsoring agen-
23 cies; and

24 “(C) at least one representative rec-
25 ommended by the leaders of the task forces.

1 “(3) INAPPLICABILITY OF TERMINATION RE-
2 QUIREMENT.—Section 14(a)(2) of the Federal Advi-
3 sory Committee Act (5 U.S.C. App.) shall not apply
4 to the advisory committee under this subsection.

5 “(m) PREPAREDNESS COOPERATIVE AGREE-
6 MENTS.—

7 “(1) IN GENERAL.—Subject to the availability
8 of appropriations for such purpose, the Adminis-
9 trator shall enter into an annual preparedness coop-
10 erative agreement with each sponsoring agency.
11 Amounts made available to a sponsoring agency
12 under such a preparedness cooperative agreement
13 shall be for the following purposes:

14 “(A) Training and exercises with other
15 Federal, State, and local government response
16 entities.

17 “(B) Acquisition and maintenance of
18 equipment, including interoperable communica-
19 tions and personal protective equipment.

20 “(C) Medical monitoring required for re-
21 sponder safety and health in anticipation of and
22 following a major disaster, emergency, or other
23 hazard, as determined by the Administrator.

24 “(2) AVAILABILITY OF APPROPRIATIONS.—Not-
25 withstanding section 1552(b) of title 31, United

1 States Code, amounts made available for cooperative
2 agreements under this subsection that are not ex-
3 pended shall be deposited in an Agency account and
4 shall remain available for such agreements without
5 fiscal year limitation.

6 “(n) RESPONSE COOPERATIVE AGREEMENTS.—The
7 Administrator shall enter into a response cooperative
8 agreement with each sponsoring agency, as appropriate,
9 under which the Administrator agrees to reimburse the
10 sponsoring agency for costs incurred by the sponsoring
11 agency in responding to a major disaster, emergency, or
12 other hazard as determined by the Administrator.

13 “(o) OBLIGATIONS.—The Administrator may incur
14 all necessary obligations consistent with this section in
15 order to ensure the effectiveness of the System.

16 “(p) AUTHORIZATION OF APPROPRIATIONS.—

17 “(1) IN GENERAL.—There is authorized to be
18 appropriated to carry out this section \$52,000,000
19 for each of fiscal years 2009, 2010, and 2011. Such
20 sums shall be in addition to amounts made available
21 from the Disaster Relief Fund for response coopera-
22 tive agreements entered into under subsection (n).

23 “(2) ADMINISTRATIVE EXPENSES.—The Ad-
24 ministrator may use not to exceed 6 percent of the
25 funds appropriated for a fiscal year pursuant to

1 paragraph (1) for salaries, expenses, and other ad-
2 ministrative costs incurred by the Administrator in
3 carrying out this section.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) APPLICABILITY OF TITLE 5, UNITED
6 STATES CODE.—Section 8101(1) of title 5, United
7 States Code, is amended—

8 (A) in subparagraph (D) by striking “and”
9 at the end;

10 (B) in subparagraph (E) by inserting
11 “and” after the semicolon; and

12 (C) by adding at the end the following:

13 “(F) an individual who is a System mem-
14 ber of the National Urban Search and Rescue
15 Response System during a period of appoint-
16 ment into Federal service pursuant to section
17 327 of the Robert T. Stafford Disaster Relief
18 and Emergency Assistance Act.”.

19 (2) INCLUSION AS PART OF UNIFORMED SERV-
20 ICES FOR PURPOSES OF USERRA.—Section 4303 of
21 title 38, United States Code, is amended—

22 (A) in paragraph (13) by inserting “a pe-
23 riod for which a System member of the Na-
24 tional Urban Search and Rescue Response Sys-
25 tem is absent from a position of employment

1 due to an appointment into Federal service
2 under section 327 of the Robert T. Stafford
3 Disaster Relief and Emergency Assistance
4 Act,” before “, and a period”; and

5 (B) in paragraph (16) by inserting after
6 “Public Health Service,” the following: “, Sys-
7 tem members of the National Urban Search
8 and Rescue Response System during a period of
9 appointment into Federal service under section
10 327 of the Robert T. Stafford Disaster Relief
11 and Emergency Assistance Act,”.

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