

111TH CONGRESS  
1ST SESSION

# H. R. 706

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to direct the Administrator of the Federal Emergency Management Agency to continue to administer the National Urban Search and Rescue Response System, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2009

Mr. COHEN (for himself, Ms. NORTON, and Mr. MARIO DIAZ-BALART of Florida) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to direct the Administrator of the Federal Emergency Management Agency to continue to administer the National Urban Search and Rescue Response System, and for other purposes.

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 2009”.

1 **SEC. 2. NATIONAL URBAN SEARCH AND RESCUE RESPONSE**  
2 **SYSTEM.**

3 (a) IN GENERAL.—Title III of the Robert T. Stafford  
4 Disaster Relief and Emergency Assistance Act (42 U.S.C.  
5 5141 et seq.) is amended by adding at the end the fol-  
6 lowing:

7 **“SEC. 327. NATIONAL URBAN SEARCH AND RESCUE RE-**  
8 **SPONSE SYSTEM.**

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

11 “(1) ADMINISTRATOR.—The term ‘Adminis-  
12 trator’ means the Administrator of the Federal  
13 Emergency Management Agency.

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

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

18 “(4) NON-EMPLOYEE SYSTEM MEMBER.—The  
19 term ‘non-employee System member’ means a Sys-  
20 tem member not employed by a sponsoring agency  
21 or participating agency.

22 “(5) PARTICIPATING AGENCY.—The term ‘par-  
23 ticipating agency’ means a State or local govern-  
24 ment, nonprofit organization, or private organization  
25 that has executed an agreement with a sponsoring  
26 agency to participate in the System.

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

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

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

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

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

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

24          “(d) TASK FORCES.—

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

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

10          “(3) COMPOSITION.—

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

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

1           each such individual with respect to the partici-  
2           pation of the individual on the task force.

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

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

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

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

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

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

6           “(g) COMPENSATION.—

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

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

17               “(B) to make payments directly to a non-  
18               employee System member on the task force for  
19               any period during which the non-employee Sys-  
20               tem member is appointed into Federal service  
21               under subsection (f)(1).

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

24               “(A) IN GENERAL.—Subject to such terms  
25               and conditions as the Administrator may im-

pose by regulation, the Administrator shall make payments to the sponsoring agency of a task force to reimburse each employer of a System member on the task force for compensation paid by the employer to an employee filling a position normally filled by the System member for any period during which the System member is appointed into Federal service under subsection (f)(1).

“(B) LIMITATION.—Costs incurred by an employer shall be eligible for reimbursement under subparagraph (A) only to the extent that the costs are in excess of the costs that would have been incurred by the employer had the System member not been appointed into Federal service under subsection (f)(1).

“(3) METHOD OF PAYMENT.—A System member shall not be entitled to pay directly from the Agency for a period during which the System member is appointed into Federal service under subsection (f)(1).

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

“(1) IN GENERAL.—A System member who is appointed into Federal service under subsection

1 (f)(1) and who suffers personal injury, illness, dis-  
2 ability, or death as a result of a personal injury sus-  
3 tained while acting in the scope of such appointment  
4 shall, for the purposes of subchapter I of chapter 81  
5 of title 5, United States Code, be treated as though  
6 the member were an employee (as defined by section  
7 8101 of that title) who had sustained the injury in  
8 the performance of duty.

9 “(2) ELECTION OF BENEFITS.—

10 “(A) IN GENERAL.—If a System member  
11 (or, in the case of the death of the System  
12 member, the System member’s dependent) is  
13 entitled—

14 “(i) under paragraph (1) to receive  
15 benefits under subchapter I of chapter 81  
16 of title 5, United States Code, by reason of  
17 personal injury, illness, disability, or death,  
18 and

19 “(ii) to receive benefits from a State  
20 or local government by reason of the same  
21 personal injury, illness, disability, or death,  
22 the System member or dependent shall elect to  
23 receive either the benefits referred to in clause  
24 (i) or (ii).



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

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

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

20          “(i) LIABILITY.—A System member appointed into  
21          Federal service under subsection (f)(1), while acting with-  
22          in the scope of the appointment, is deemed an employee  
23          of the Government under section 1346(b) of title 28,  
24          United States Code, and chapter 171 of that title, relating  
25          to tort claims procedure.

1       “(j) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—

2       With respect to a System member who is not a regular  
3       full-time employee of a sponsoring agency or participating  
4       agency, the following terms and conditions apply:

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

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

23       “(k) LICENSES AND PERMITS.—If a System member  
24      holds a valid license, certificate, or other permit issued by  
25      any State or other governmental jurisdiction evidencing

1 the member’s qualifications in any professional, mechan-  
2 ical, or other skill or type of assistance required by the  
3 System, the System member shall be deemed to be per-  
4 forming a Federal activity when rendering aid involving  
5 such skill or assistance during a period of appointment  
6 into Federal service under subsection (f)(1).

7 “(l) ADVISORY COMMITTEE.—

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

13 “(2) COMPOSITION.—The advisory committee  
14 shall be composed of members from geographically  
15 diverse areas, and shall include—

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

18 “(B) the senior emergency manager from  
19 at least 2 States that include sponsoring agen-  
20 cies; and

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

23 “(3) INAPPLICABILITY OF TERMINATION RE-  
24 QUIREMENT.—Section 14(a)(2) of the Federal Advi-

1 sory Committee Act (5 U.S.C. App.) shall not apply  
2 to the advisory committee under this subsection.

3 “(m) PREPAREDNESS COOPERATIVE AGREE-  
4 MENTS.—

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

12 “(A) Training and exercises, including  
13 training and exercises with other Federal,  
14 State, and local government response entities.

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

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

22 “(2) AVAILABILITY OF APPROPRIATIONS.—Not-  
23 withstanding section 1552(b) of title 31, United  
24 States Code, amounts made available for cooperative  
25 agreements under this subsection that are not ex-

1       pended shall be deposited in an Agency account and  
2       shall remain available for such agreements without  
3       fiscal year limitation.

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

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

13       “(p) AUTHORIZATION OF APPROPRIATIONS.—

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

20               “(2) ADMINISTRATIVE EXPENSES.—The Ad-  
21 ministrator may use not to exceed 6 percent of the  
22 funds appropriated for a fiscal year pursuant to  
23 paragraph (1) for salaries, expenses, and other ad-  
24 ministrative costs incurred by the Administrator in  
25 carrying out this section.”.

1 (b) CONFORMING AMENDMENTS.—

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

5 (A) in subparagraph (D) by striking “and”  
6 at the end;

7 (B) by moving subparagraph (F) to appear  
8 after subparagraph (E);

9 (C) in subparagraph (F) by adding “and”  
10 at the end; and

11 (D) by inserting after subparagraph (F)  
12 the following:

13 “(G) 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 Act”  
4 before “, and a period”; and

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

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