

SECOND REGULAR SESSION

SENATE BILL NO. 1231

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GIBBONS.

Read 1st time February 27, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4180S.011

AN ACT

To repeal section 44.023, RSMo, relating to the emergency management agency, and to enact in lieu thereof five new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 44.023, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 44.023, 44.136, 44.139, 44.142 and 44.145, to read as follows:

44.023. 1. The Missouri state emergency management agency shall establish and administer an emergency volunteer program to be activated in the event of [an earthquake or other natural disaster] **a disaster or emergency** whereby volunteer architects and professional engineers registered under chapter 327, RSMo, and construction contractors, equipment dealers and other owners and operators of construction equipment may volunteer the use of their services and equipment, either manned or unmanned, for [up to three days] **the period** as requested and needed by the state emergency management agency **and agreed to by the volunteer.**

2. In the event of [an earthquake or other natural disaster] **a disaster or emergency**, the enrolled volunteers shall, where needed, assist local jurisdictions and local building inspectors to provide essential demolition, cleanup or other related services and to determine whether buildings affected by [an earthquake or other natural disaster] **a disaster or emergency:**

- (1) Have not sustained serious damage and may be occupied;
- (2) Must be vacated temporarily pending repairs; or
- (3) Must be demolished in order to avoid hazards to occupants or other persons.

3. Any person when utilized as a volunteer under the emergency volunteer program shall have his incidental expenses paid by the local jurisdiction for which the volunteer service is

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

provided[.], **for any period the volunteer is not under contract awarded as otherwise provided by law. Such incidental expenses or contract payments may be reimbursed from state or federal funds as provided by sections 44.010 to 44.130.**

4. Architects and professional engineers, construction contractors, equipment dealers and other owners and operators of construction equipment and the companies with which they are employed, working under the emergency volunteer program shall not be personally liable either jointly or separately for any [act or] acts **or omissions** committed in the performance of their official duties as emergency volunteers except in the case of willful misconduct or gross negligence.

5. Any individuals, employers, partnerships, corporations or proprietorships, that are working under the emergency volunteer program providing demolition, cleanup, removal or other related services, shall not be liable for any acts committed in the performance of their official duties as emergency volunteers except in the case of willful misconduct or gross negligence.

6. No claim may be brought by any person for willful misconduct or gross negligence within limitations established by subsection 4 or 5 of this section, except as provided in section 44.145.

44.136. As used in sections 44.136 to 44.145, the following terms mean:

(1) **"Local emergency", a disaster as defined by section 44.010 or an unexpected occurrence as defined in this section for which a local organization for emergency management or political subdivision has responsibility and where such local public entities cannot prevent loss of life, injury, damage to public or private property, environmental pollution, or maintain or restore essential public services, public safety or public infrastructure through the equipment and property owned by the public entity and personnel employed by the public entity. For purposes of this subsection unexpected occurrence shall mean a sudden, unexpected event, such as, but not limited to, thunderstorms, high winds, ice or snow storms, fires, floods, earthquakes, or other soil or geologic movements, water pipe breaks, riots, accidents, or terrorism, which the local official determines is a clear and imminent danger and demands immediate action to protect or mitigate loss and protect public safety;**

(2) **"Local organization for emergency management", those organizations as defined by section 44.010 and the executive officers of such organizations;**

(3) **"Political subdivisions", any entity as defined by section 44.010 and other local governmental entities created by law having responsibilities for emergencies and the executive officers and officials of such entities having responsibility for emergency response;**

(4) **"Volunteer", an architect or professional engineer registered pursuant to chapter 327, RSMo, or contractor, equipment dealer or other owner or operator of**

construction equipment who is in the business of performing work on public or private construction projects or who trains operators of such equipment or sells or leases such equipment and who provides equipment or personnel to a local organization for emergency management or political subdivision at the request of such governmental entity, whether or not compensation is provided. "Volunteer" shall include persons or companies enrolled in a local emergency response plan organized by a local organization for emergency management or political subdivision, or organized under an agreement for emergency response between a local emergency response organization or one or more political subdivisions and an association representing such volunteers, or organized under a mutual-aid agreement provided in section 44.090.

44.139. 1. During the period of a local emergency, a local organization for emergency management or political subdivision may engage the services of volunteers for purposes of the emergency, notwithstanding any other requirement of law for advertisement and acceptance of bids for work performed relating to the emergency. Compensation, if any, during the period of the emergency shall be agreed upon by the local entity and the volunteer as otherwise provided by law.

2. Any work after the period of the local emergency to repair damage to public property resulting from the local emergency or to restore public services shall be advertised and bid as required by federal or state law or local ordinances.

44.142. 1. Notwithstanding any other provision of law, a local organization for emergency management or political subdivision may indemnify, without limit, a volunteer as defined in this section against any liability arising from the volunteer's activities during the period of the emergency.

2. No claim may be brought by any person against a volunteer as provided in sections 44.136 to 44.145, except as provided in section 44.145.

44.145. The provisions of this section shall apply, without limitation, to any architect or professional engineer registered pursuant to chapter 327, RSMo, or any contractor, equipment dealer or other owner or operator of construction equipment and any owner, officer, employee or agent of such entities, who performs services or provides personnel or equipment at the request of the government of the state or any political subdivision during the period of a disaster, emergency or local emergency as defined in this chapter. Persons governed by this section shall not be liable to any person for any damage to real or personal property, economic loss, bodily injury, death, or other loss or damage of any kind or description that results from any action taken on behalf of the state or political subdivision, whether or not that action was specifically directed by the governmental entity if such person believes in good faith

that such action was within the scope of the request by the state or political subdivision for emergency assistance. The immunity from liability conferred hereunder shall not extend to any damage, injury or loss which was not the necessary or likely result of the actions described above and which would have been avoided but for willful or reckless conduct of such person.

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