

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.

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

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-

1 pose by regulation, the Administrator shall
2 make payments to the sponsoring agency of a
3 task force to reimburse each employer of a Sys-
4 tem member on the task force for compensation
5 paid by the employer to an employee filling a
6 position normally filled by the System member
7 for any period during which the System mem-
8 ber is appointed into Federal service under sub-
9 section (f)(1).

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

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

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

24 “(1) IN GENERAL.—A System member who is
25 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 “(1) 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,”.

○