

CHAPTER 28

AN ACT creating the "Fire Service Resource Emergency Deployment Act" and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.52:14E-11 Short title.

1. This act shall be known and may be cited as the "Fire Service Resource Emergency Deployment Act."

C.52:14E-12 Findings, declarations relative to coordination of fire service resources in emergencies.

2. The Legislature finds and declares that, in the interest of public safety, it is appropriate to establish a mechanism for the coordination of fire service resources throughout the State to facilitate a quick and efficient response to any emergency incident or situation that requires the immediate deployment of those resources in order to protect life and property from the danger or destruction of fire, explosion or other disaster. This act is remedial in nature and shall be liberally construed to effectuate these purposes.

C.52:14E-13 Definitions relative to coordination of fire service resources in emergencies.

3. As used in this act:

"County fire coordinator" means the individual appointed by the State fire coordinator pursuant to subsection a. of section 5 of this act.

"County fire mutual aid plan" means a plan, prepared and adopted by a county in accordance with subsection c. of section 5 of this act, which sets forth the measures that are to be implemented in those instances where the fire service resources of an individual municipality within the county are unable to respond adequately to an emergency incident or a local fire emergency disaster and, therefore, it is necessary for the county to coordinate the delivery of fire service resources and assistance to that municipality from other municipalities in the county.

"Deputy county fire coordinator" means an individual appointed by the county fire coordinator pursuant to subsection a. of section 5 of this act to assist the county fire coordinator with the duties and responsibilities of his position and to serve as the county fire coordinator in his absence.

"Deputy State fire coordinator" means an individual appointed by the State fire coordinator from the employees of the Division of Fire Safety to assist the State fire coordinator with the duties and responsibilities of his position and to serve as the State fire coordinator in his absence.

"Division" means the Division of Fire Safety in the Department of Community Affairs.

"Emergency incident" means any situation to which a unit of the fire service responds to deliver emergency services including, but not limited to, rescue, fire suppression, special operations and other forms of hazard control and mitigation.

"Fire service resources" means fire fighters and other personnel utilized by a unit of the fire service to provide rescue, fire suppression and related activities whether those fire fighters and personnel are volunteer or career; trucks, rescue vehicles and other vehicles used for fire fighting and emergency purposes; and fire fighting and rescue equipment used for fire or emergency purposes, including communications and protective equipment. Fire service resources shall not include emergency medical service providers and personnel, except that any unit or personnel that provides both fire and emergency medical services shall be subject to this act while performing fire suppression and related activities.

"Forest fire service" means the agency within the Department of Environmental Protection that is responsible for the protection of life, property and natural resources from wildfire.

"Incident commander" means the individual in overall command or control of the fire service personnel, and associated emergency equipment and emergency vehicles, at the site of an emergency incident.

"Local fire emergency disaster" means an emergency incident which, in the judgment of the incident commander, is of such severe degree and nature that it presents a significant threat to the health, safety and welfare of a municipality and its residents and, therefore, may warrant the implementation of the municipality's municipal emergency operations plan.

"Local fire mutual aid plan" means a plan, prepared and adopted by a municipality or fire

district in accordance with section 4 of this act, which sets forth the measures that are to be implemented in those instances when the fire service resources of the municipality or fire district cannot adequately respond to an emergency incident or a local fire emergency disaster and, as a consequence, it is necessary for the municipality or fire district to request assistance and fire service resources from contiguous municipalities.

"Order of deployment" means an order issued by the State fire coordinator pursuant to this act to a unit of the fire service requiring the immediate response, recall or standby of that unit's fire service personnel, emergency equipment or emergency vehicles, or any part thereof.

"State fire coordinator" means the Director of the Division of Fire Safety in the Department of Community Affairs, or his designee.

"State firewarden" means the chief of the forest fire service in the Department of Environmental Protection or his designee.

"Unit of the fire service" means a department or force, be it paid, part-paid or volunteer, established and maintained by the State or any of its instrumentalities, any local governmental unit or any of its instrumentalities, any State or local authority, fire district or non-profit corporation, association or organization for the purposes of fire suppression, rescue and related activities.

C.52:14E-14 Preparation, adoption of local fire mutual aid plans.

4. Each municipality or fire district, as the case may be, in this State shall prepare and adopt a local fire mutual aid plan. The plan shall set forth policies and procedures to coordinate the effective utilization of fire service resources in those instances where the implementation of the local fire mutual aid plan is determined to be necessary or appropriate. Each local fire mutual aid plan shall be based upon the planning criteria, objectives, requirements, responsibilities and concepts of operation essential for the implementation of all necessary and appropriate protective or remedial measures to be taken in response to emergency incidents. Each local fire mutual aid plan shall be adopted no later than one year after the effective date of this act. Following adoption, each municipality or fire district shall file a copy of its local fire mutual aid plan with the county fire coordinator. In any instance where a local fire mutual aid plan provides for the provision of assistance and fire service resources by or to a political subdivision of another state, the municipality or fire district also shall file a copy of that plan with the State fire coordinator. Each local fire mutual aid plan shall be reviewed and updated every two years.

C.52:14E-15 Appointment, duties of county fire coordinator, deputies; county fire mutual aid plans.

5. a. The State fire coordinator shall appoint a county fire coordinator in each county, pursuant to the provisions of this section, and the county fire coordinator shall appoint at least one deputy county fire coordinator in each county, in accordance with the provisions of this section. More than one deputy county fire coordinator may be appointed in each county.

(1) The State fire coordinator shall determine the duties and responsibilities as deemed necessary for the positions of county fire coordinator and deputy county fire coordinator. The duties and responsibilities shall include, but not be limited to:

(a) fire service resources management and coordination;

(b) preparation of the county Emergency Operations Plan Fire Annex in conjunction with the county emergency management coordinator and in accordance with the standards established by the State Office of Emergency Management;

(c) county fire mutual aid planning, as set forth in subsection c. of this section; and

(d) continuing training and education requirements.

(2) The county emergency management coordinator in each county shall, in consultation with the fire chiefs of the units of the fire service within each county, submit the name of at least one candidate to the State fire coordinator for consideration as the county fire coordinator. Each candidate shall possess a minimum of seven years of documented fire service experience to be eligible for appointment as the county fire coordinator. The State fire coordinator shall appoint the county fire coordinator from the list of eligible candidates submitted by the county emergency management coordinator. Each county fire coordinator shall serve for a two-year term and until his or her successor is appointed. Vacancies shall be filled in the same manner as

the original appointment.

(3) The county fire coordinator in each county shall, in consultation with the fire chiefs of the units of the fire service within each county, appoint the deputy county fire coordinator or coordinators. Each candidate shall possess a minimum of four years of documented fire service experience to be eligible for appointment as a deputy county fire coordinator. Each deputy county fire coordinator shall serve for a two-year term, which shall be served concurrently with the term of the county fire coordinator appointed in that county. Vacancies shall be filed for the unexpired term only and in the same manner as the original appointment.

b. The county fire coordinator shall implement the county's fire mutual aid plan, coordinate the utilization of fire service resources with the county in response to emergency incidents which require implementation of the county's fire mutual aid plan and perform such other duties as may be necessary and appropriate to effectuate the purposes of this act.

c. Each county in this State shall prepare and adopt a county fire mutual aid plan. The plan shall set forth policies and procedures to coordinate the effective utilization of fire service resources in those instances where the implementation of the county fire mutual aid plan is determined to be necessary or appropriate. Each county fire mutual aid plan shall be based upon the planning criteria, objectives, requirements, responsibilities and concepts of operation essential for the implementation of all necessary and appropriate protective or remedial measures to be taken in response to emergency incidents. Each county fire mutual aid plan shall be adopted no later than one year after the effective date of this act. Following adoption, each county shall file a copy of its county fire mutual aid plan with the State fire coordinator. Each county fire mutual aid plan shall be reviewed and updated every two years.

d. Each unit of the fire service in the county shall participate in the county fire mutual aid plan and shall submit every two years to its county fire coordinator the following information:

- (1) A complete inventory of personnel and equipment;
- (2) A local fire mutual aid plan prepared and updated pursuant to section 4 of this act; and
- (3) A listing of fire companies and departments involved in the local fire mutual aid plan.

C.52:14E-16 Procedure during emergency incident, local, county.

6. a. In the event of an emergency incident, the incident commander shall determine whether additional fire service resources are required and, if so, shall first call upon the members of his local fire mutual aid plan.

b. Should the incident commander determine, after calling for assistance from members of his local fire mutual aid plan, that further fire service resources are required to respond to the emergency incident, he shall request that the county fire coordinator place the county fire mutual aid plan into effect. Upon making such a request, the incident commander also shall notify the municipal emergency management coordinator appointed pursuant to section 8 of P.L.1953, c.438 (C.App.A:9-40.1) of the emergency incident so that the municipal emergency management coordinator may alert and utilize his staff should additional emergency resources be required.

c. Upon the activation of a county fire mutual aid plan, the county fire coordinator shall notify the regional fire coordinator assigned to that county and the State fire coordinator with regard to the emergency incident and shall further provide periodic updates to both until termination of the emergency incident. The State fire coordinator shall ensure that the county and State Offices of Emergency Management are notified and provide them with periodic updates until termination of the emergency incident.

d. In the event that the municipal emergency management coordinator determines to mobilize local resources in response to an emergency incident, he shall so notify the county emergency management coordinator appointed pursuant to section 12 of P.L.1953, c.438 (C.App.A:9-42.1) in order that the county emergency management coordinator shall be prepared to respond in the event that local resources are insufficient to effectively deal with the emergency incident.

e. In the event of an emergency incident, the incident commander also may declare a local fire emergency disaster. In making any such determination, the incident commander shall utilize the best information then available.

f. Whenever a local fire emergency disaster is declared pursuant to subsection e. of this

section, the municipal emergency management coordinator shall activate the municipal emergency operations plan adopted pursuant to section 19 of P.L.1989, c. 222 (C.App. A:9-43.2). The municipal emergency management coordinator shall coordinate the interactions of all those providing emergency response, emergency resources or both for the emergency incident.

g. The municipal emergency management coordinator shall provide periodic updates to the county emergency management coordinator with regard to the emergency incident. The county emergency management coordinator shall provide additional resources as may be necessary and available. The county emergency management coordinator also shall notify the State Office of Emergency Management in the Division of State Police in the Department of Law and Public Safety of the emergency incident. Requests for assistance from the State Office of Emergency Management shall be made by the county office of emergency management.

h. The county fire coordinator shall maintain a liaison with the supervisory representative of the forest fire service in deploying fire service resources and coordinating protection activities during wildfire emergency incidents pursuant to R.S.13:9-1 et seq.

I. The county fire coordinator shall request additional resources, beyond those from within his county, through the regional or State fire coordinator. The regional or State fire coordinator shall utilize the Office of Emergency Management system to request these resources.

C.52:14E-17 Powers of State fire coordinator.

7. The State fire coordinator shall have all powers necessary or convenient to effectuate the purposes of this act including, without limitation, power:

a. To enforce and administer the provisions of this act; to seek mandatory injunctive relief in State courts; to issue subpoenas for the production of persons, things, and documents that are necessary to achieve compliance with the provisions of this act; and to prosecute or cause to be prosecuted violators of the provisions of this act in administrative hearings and in civil proceedings in State and local courts;

b. To assess penalties and to compromise and settle a claim for a penalty for a violation of the provisions of this act in an amount as may appear appropriate and equitable; and

c. To hold and exercise all the rights and remedies available to a judgment creditor.

C.52:14E-18 Procedure for coordinating fire service resources.

8. a. Whenever a county fire coordinator determines that fire service resources are needed from other counties due to an emergency incident or a local fire emergency disaster, the county fire coordinator shall notify the regional fire coordinator with responsibility for that county. Upon receipt of a request for out of county fire service resources from the county fire coordinator, the regional fire coordinator shall notify the State fire coordinator as well as the county fire coordinators from the counties adjacent to the county from which the emergency incident or local fire emergency disaster originates.

b. Whenever the State fire coordinator:

(1) makes the determination that fire service resources should be deployed to assist in fire suppression and related activities in another state during a fire emergency in that state; or

(2) makes the determination, in consultation with the regional fire coordinator and county fire coordinator for the county from which an emergency incident or a local fire emergency disaster originates, that the emergency incident or local fire emergency disaster requires the deployment of additional fire service resources,

the State fire coordinator shall be empowered and authorized to issue immediately an order of deployment and require any unit of the fire service to respond, be recalled, standby or deploy any or all of its fire service resources to any location and for any period of the emergency incident or local fire emergency disaster. During any such emergency incident or local fire emergency disaster, the assigned fire service resources shall be under the operational command of the incident commander at the site. In issuing an order of deployment, the State fire coordinator also shall be empowered and authorized to direct that any unit of fire service not respond to an emergency incident or a local fire emergency disaster, but remain on standby.

c. If the State fire coordinator determines that the residents of a municipality or any portion

thereof may not have sufficient fire service resources as a result of an order of deployment issued pursuant to this section to the unit of the fire service responsible for the fire protection of that municipality or that portion thereof, the State fire coordinator may issue an order of deployment to an adjacent or nearby unit of the fire service to provide necessary fire protection services, including the provision of fire service resources in the affected municipality or portion thereof. An order of deployment issued pursuant to this section shall be terminated by the State fire coordinator when he determines that the deployed unit of the fire service is once again able to provide adequate fire protection to the residents within its area of responsibility without the provision of fire services resources from other units of the fire service.

d. An order of deployment shall remain in effect during the period of the emergency incident or local fire emergency disaster or until otherwise rescinded by the State fire coordinator, superseded by order of the Governor pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), or superseded by the determination that mutual aid should be provided in accordance with the "Emergency Management Assistance Compact," P.L.2001, c.249 (C.38A:20-4 et seq.), or the Interstate Civil Defense and Disaster Compact, N.J.S.38A:20-3. Upon the issuance of an order of the Governor pursuant to P.L.1942, c.251 (C.App.A:9-33 et seq.), the State fire coordinator shall coordinate all fire resources in accordance with the State Emergency Operations Plan. If deemed necessary, and if the emergency incident or local fire emergency disaster continues to exist, the State fire coordinator may reinstate any previously issued order of deployment or any portion of any such order of deployment. The State fire coordinator may modify the terms of an order of deployment issued to a unit of the fire service in order to respond immediately to a current or developing emergency incident or local fire emergency disaster or to provide adequate fire protection to a municipality or any portion thereof impacted by the order of deployment, including, but not limited to, reducing or increasing the number of deployed fire service personnel, emergency equipment or emergency vehicles.

e. The State fire coordinator shall maintain a liaison with the supervisory representative of the forest fire service in deploying fire service resources and coordinating protection activities during wildfire emergency incidents pursuant to R.S.13:9-1 et. seq.

C.52:14E-19 Provision of information.

9. The State fire coordinator may require any unit of the fire service periodically to provide information on the status, condition and readiness of any of the unit's fire service resources or any other information deemed necessary by the State fire coordinator. The State fire coordinator may prescribe the form and the manner in which such information is to be provided.

C.52:14E-20 Rules, regulations.

10. The Director of the Division of Fire Safety may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act; except that, notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Community Affairs may adopt, immediately upon filing with the Office of Administrative Law, such regulations as the State fire coordinator deems necessary to implement the provisions of this act, and which shall be effective for a period not to exceed six months and may thereafter be amended, adopted or readopted by the State fire coordinator in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

C.52:14E-21 Enforcement of order of deployment.

11. Any State or local law enforcement agency or officer may enforce an order of deployment issued by the State fire coordinator pursuant to this act. If the State fire coordinator shall determine that such enforcement is essential in order to facilitate the immediate response to an emergency incident or local fire emergency disaster, he shall so notify any State or local law enforcement agency or officer and that agency or officer shall forthwith enforce that order of deployment.

C.52:14E-22 Violations, penalties.

12. Any person who knowingly and willfully violates, causes to violate, hinders, or otherwise

interferes with an order of the State fire coordinator issued pursuant to this act shall be liable to a penalty of not more than \$10,000 for each violation. Any person aggrieved by an order imposing such penalty shall be entitled to an administrative hearing. The application for the hearing shall be filed with the division by the 15th day after receipt by the person of the penalty notice. The application for an administrative hearing shall not stay or otherwise delay the implementation of an order of deployment issued by the State fire coordinator pursuant to this act. If the administrative penalty order has not been satisfied by the 30th day after its issuance and an application for an administrative hearing has not been made the penalty may be recovered in the name of the Commissioner of Community Affairs pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

13. This act shall take effect immediately.

Approved March 10, 2003.