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STATUS INFORMATION

General Bill

Sponsors: Reps. Loftis, J.E. Smith, Barfield, Haley, Agnew, Battle, Bowen, Cato, Duncan, Gambrell, Herbkersman, Horne, Hosey, Limehouse, Moss, J.H. Neal, Neilson, Owens, Pinson, E.H. Pitts, Rice, Stringer, Williams, Wylie and A.D. Young

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Introduced in the House on February 11, 2009

Currently residing in the House Committee on **Ways and Means**

Summary: Disaster Assistance Trust Fund

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/11/2009	House	Introduced and read first time HJ-11
2/11/2009	House	Referred to Committee on Ways and Means HJ-12

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VERSIONS OF THIS BILL

[2/11/2009](#)

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A BILL

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING CHAPTER 23 TO TITLE 25 SO AS TO
13 ESTABLISH THE DISASTER ASSISTANCE TRUST FUND,
14 TO PROVIDE FOR ITS PURPOSE, SOURCE OF FUNDING,
15 INTEREST EARNINGS, AND ADMINISTRATION, TO
16 PROVIDE THAT AN UNEXPENDED BALANCE IN THE
17 FUND ROLLS OVER TO THE NEXT FISCAL YEAR, TO
18 PROVIDE FOR THE USE OF MONIES WITHIN THE FUND
19 AND THAT THE FUND MUST BE HELD HARMLESS FROM
20 BUDGET REDUCTIONS, AND TO PROVIDE FOR THE
21 PROMULGATION OF REGULATIONS NECESSARY TO
22 IMPLEMENT THE CHAPTER; TO AMEND SECTION 8-25-10,
23 RELATING TO DEFINITIONS, SO AS TO DEFINE
24 EMERGENCY SUPPORT FUNCTION VOLUNTEER; TO
25 AMEND SECTION 8-25-20, RELATING TO USE OF
26 VOLUNTEERS AND DEVELOPMENT OF PROGRAMS, SO
27 AS TO ALLOW GOVERNMENT AGENCIES TO DEVELOP
28 VOLUNTEER PROGRAMS TO INCLUDE EMERGENCY
29 SUPPORT FUNCTION VOLUNTEERS; TO AMEND SECTION
30 8-25-40, RELATING TO MILEAGE, LIABILITY INSURANCE,
31 AND PROTECTION OF SOVEREIGN IMMUNITY, SO AS TO
32 PROVIDE THAT EMERGENCY SUPPORT VOLUNTEERS
33 SHALL RECEIVE MILEAGE, LIABILITY INSURANCE,
34 SOVEREIGN IMMUNITY, AND WORKERS'
35 COMPENSATION COVERAGE FOR SERVICE TO THE
36 STATE AS VOLUNTEERS UNDER CERTAIN
37 CIRCUMSTANCES; TO AMEND SECTION 11-5-230,
38 RELATING TO AN ACCOUNT FOR MATCHING DISASTER
39 ASSISTANCE FUNDS, SO AS TO ESTABLISH THE NAME
40 OF THE FUND AS THE DISASTER ASSISTANCE TRUST
41 FUND AND TO PROVIDE FOR THE PURPOSE OF THE
42 FUND; TO AMEND SECTION 25-1-420, AS AMENDED,

1 RELATING TO THE SOUTH CAROLINA EMERGENCY
2 MANAGEMENT DIVISION OF THE OFFICE OF THE
3 ADJUTANT GENERAL, SO AS TO PROVIDE FURTHER
4 RESPONSIBILITIES OF THE DIVISION; TO AMEND
5 SECTION 25-1-440, AS AMENDED, RELATING TO POWERS
6 AND DUTIES OF THE GOVERNOR DURING A DECLARED
7 EMERGENCY, SO AS TO PROVIDE THAT HIS AUTHORITY
8 TO PROVIDE TIMING AND TERMINATION
9 REQUIREMENTS FOR HIS AUTHORITY TO COMPEL AN
10 EVACUATION; TO AMEND SECTION 42-1-130, AS
11 AMENDED, RELATING TO THE DEFINITION OF AN
12 EMPLOYEE, SO AS TO INCLUDE EMERGENCY SUPPORT
13 FUNCTION VOLUNTEERS; TO AMEND SECTION 42-7-65,
14 AS AMENDED, RELATING TO AVERAGE WEEKLY WAGE,
15 SO AS TO PROVIDE FOR THE AVERAGE WEEKLY WAGE
16 CALCULATION FOR EMERGENCY FUNCTION
17 VOLUNTEERS; AND TO AMEND SECTION 59-23-210,
18 RELATING TO CONSTRUCTION, IMPROVEMENT, AND
19 RENOVATION OF PUBLIC SCHOOLS, SO AS TO REQUIRE
20 THE APPOINTMENT OF A REPRESENTATIVE OF THE
21 EMERGENCY MANAGEMENT DIVISION TO THE
22 COMMITTEE CHARGED WITH UPDATING THE
23 CONSTRUCTION STANDARDS GUIDE.

24
25 Be it enacted by the General Assembly of the State of South
26 Carolina:

27
28 SECTION 1. Title 25 of the 1976 Code is amended by adding:

29
30 "CHAPTER 23

31
32 Disaster Assistance Trust Fund

33
34 Section 25-23-10. There is created the Disaster Assistance
35 Trust Fund of South Carolina, a separate and distinct fund from the
36 general fund of the State. The purpose of the Disaster Assistance
37 Trust Fund is to provide funds for South Carolina's nonfederal
38 share in a presidentially declared disaster and for immediate
39 response and protection measures for a disaster that does not
40 receive a presidential declaration.

41
42 Section 25-23-20. The State Treasury may accept monies for
43 deposit to the fund in the Disaster Assistance Trust Fund from

1 funds appropriated by the General Assembly, funds provided by
2 the Federal Emergency Management Authority for presidential
3 disaster declarations, and funds provided by other entities.

4
5 Section 25-23-30. The State Treasury shall credit earned
6 interest to the same fund.

7
8 Section 25-23-40. The fund must be administered and managed
9 by the Trustees of the Disaster Assistance Fund. The Governor,
10 the Governor's authorized representative, as so designated in the
11 Federal Emergency Management Authority State Agreement
12 following a presidentially declared disaster or emergency, and the
13 Director of the South Carolina Management Division shall serve as
14 trustees of the fund. The Director of the South Carolina
15 Management Division, with approval of the Governor, may begin
16 to expend funds when a disaster or emergency is likely or
17 imminent to protect the citizens and property of South Carolina as
18 determined through mechanisms provided in the State Emergency
19 Operations Plan.

20 The fund shall maintain a separate accounting for each
21 presidentially declared disaster or emergency and
22 nonpresidentially declared disaster for which funds are withdrawn.

23
24 Section 25-23-50. (A) Unencumbered monies and an
25 unexpended balance of the fund remaining at the end of a fiscal
26 year do not revert to the general fund but must be carried forward
27 and maintained in separate accounts until expended in accordance
28 with this chapter.

29 (B) An unexpected balance in a disaster account of the fund
30 may be used to supplement shortfalls in other disaster accounts in
31 the fund.

32
33 Section 25-23-60. Monies in the Disaster Assistance Trust
34 Fund must be expended solely to provide funds for the nonfederal
35 share in a presidentially declared disaster or for immediate
36 response and protection measures when a disaster or emergency
37 situation is likely or imminent. After a presidentially declared
38 disaster, monies from this fund must be expended to pay only the
39 percentage of the nonfederal share as recommended by the
40 Governor and determined by the General Assembly.

41
42 Section 25-23-70. The General Assembly shall hold fund
43 balances harmless from budget reductions. Funds are designated

1 for the nonfederal match share in a declared disaster and to fund
2 immediate response and protection measures in a disaster.

3
4 Section 25-23-80. The South Carolina Emergency Management
5 Division shall promulgate regulations necessary for the
6 implementation and administration of the Disaster Assistance Trust
7 Fund.”

8
9 SECTION 2. Section 8-25-10 of the 1976 Code is amended to
10 read:

11
12 “Section 8-25-10. As used in this chapter:

13 (a) ‘Volunteer’ ~~shall mean any~~ means a person who, of his own
14 free will, provides goods or services, without ~~any~~ financial gain, to
15 ~~any~~ an agency, instrumentality, or political subdivision of the
16 State;

17 (b) ‘Regular-service volunteer’ ~~shall mean any~~ means a person
18 engaged in specific voluntary service activities on an ongoing or
19 continuous basis;

20 (c) ‘Occasional-service volunteer’ ~~shall mean any~~ means a
21 person who provides a one-time or occasional voluntary service;

22 (d) ‘Material donor’ ~~shall mean any~~ means a person who,
23 without financial gain, provides funds, materials, or opportunities
24 for clients of agencies, departments, or institutions of the State;

25 (e) ‘Department’ ~~shall mean~~ means and ~~include all~~ includes
26 departments, agencies, and institutions of state government;

27 (f) ‘Emergency support function volunteer’ means a
28 regular-service or occasional-service volunteer appointed to assist
29 a department with fulfilling its lead or support responsibilities
30 provided in the State Emergency Operations Plan.”

31
32 SECTION 3. Section 8-25-20 of the 1976 Code is amended to
33 read:

34
35 “Section 8-25-20. ~~Every~~ A department ~~is authorized to~~ may
36 develop volunteer programs and accept the services of volunteers,
37 including regular-service volunteers, occasional-service
38 volunteers, emergency support function volunteers, or material
39 donors, to assist in programs carried out or administered by that
40 department.

41 Except as provided by law, volunteers recruited, trained, ~~or~~
42 accepted, or appointed by ~~any~~ a department ~~shall~~, to the extent of
43 their voluntary service, ~~be~~ are exempt from ~~all~~ provisions of law

1 relating to state employment, hours of work, rate of compensation,
2 leave time, and employee benefits. Volunteers shall comply with
3 applicable work rules.

4 ~~Every~~ A department ~~using that uses~~ the services of volunteers is
5 authorized to provide volunteers with ~~such~~ incidental
6 reimbursements ~~and~~ as the department deems appropriate to assist
7 volunteers in performing their duties.”

8
9 SECTION 4. Section 8-25-40 of the 1976 Code is amended to
10 read:

11
12 “Section 8-25-40. ~~(a)~~(A) Transportation mileage
13 reimbursement may be furnished ~~those~~ to volunteers who use their
14 personal vehicles to perform departmental tasks; ~~provided,~~
15 however, ~~that~~ mileage ~~shall may~~ not be furnished to ~~the~~ volunteers
16 for driving to and from their volunteer work. A meal allowance
17 ~~also~~ may ~~also~~ be furnished to ~~such~~ volunteers ~~making~~ who make
18 departmental trips at departmental request if the trip necessarily
19 extends over an established meal period.

20 ~~(b)~~(B) Liability insurance may be provided by ~~the~~ a department
21 ~~utilizing their~~ that uses volunteer services ~~both~~ to regular-service
22 ~~and,~~ occasional-service, and emergency support function
23 volunteers to the same extent as may be provided by the
24 department to its employees. Volunteers in state service shall
25 enjoy the protection of sovereign immunity of the State to the same
26 extent as employees.

27 (C) Workers’ compensation coverage may be provided by the
28 department to properly appointed emergency support function
29 volunteers. Each department shall designate the circumstances that
30 trigger workers’ compensation coverage in a written volunteer
31 agreement and shall provide copies of that agreement to the State
32 Accident Fund or other compensation carrier. These
33 circumstances include, but are not limited to, coverage of activities
34 related to responsibilities provided when the State Emergency
35 Operations Plan is activated and coverage when the Governor has
36 declared a state of emergency or public health emergency.”

37
38 SECTION 5. Section 11-5-230 of the 1976 Code is amended to
39 read:

40
41 “Section 11-5-230. There is established in the Office of the
42 State Treasurer a continuing account ~~to be referred to as the~~
43 Disaster Assistance Trust Fund used to ~~match disaster assistance~~

1 ~~funds when required by the federal entity providing the funds pay~~
2 ~~the State's portion of the nonfederal share of disaster assistance~~
3 ~~funds and to pay for immediate response and protection measures.~~
4 The fund must be administered by the trustees as provided in
5 Section 25-23-40 and established and maintained with
6 appropriations as the General Assembly may authorize in the
7 annual General Appropriations Act and as otherwise provided
8 ~~herein~~ and shall continue from year to year. The State Treasurer
9 shall hold the funds in a separate and distinct account and all
10 interest and other income accruing on the funds must be retained in
11 the account. The funds in the continuing account may be
12 disbursed only upon the authorization of the Governor when a
13 disaster or emergency is likely or imminent.

14 In a ~~Presidentially-declared~~ presidentially declared disaster it is
15 the intent of the General Assembly that the Governor's recourse is
16 to first use funds approved by the General Assembly into the
17 Disaster Assistance Trust Fund. If the Governor finds that the
18 demand upon this fund is unreasonably great and insufficient to
19 meet immediate disaster needs (and the General Assembly is not in
20 session), he may request through the State Budget and Control
21 Board a transfer into the Disaster Assistance Trust Fund monies
22 appropriated for other purposes and in amounts not to exceed five
23 million dollars in any fiscal year of the State.”

24
25 SECTION 6. Section 25-1-420 of the 1976 Code, as last amended
26 by Act 296 of 2008, is further amended to read:

27
28 “Section 25-1-420. There is established within the office of the
29 Adjutant General the South Carolina Emergency Management
30 Division. The division must be administered by a director
31 appointed by the Adjutant General, to serve at his pleasure, and
32 ~~such~~ additional staff as may be employed or appointed by the
33 Adjutant General. The division is responsible for ~~the~~
34 ~~implementation of the following:~~

35 ~~(a)~~(1) coordinating the efforts of ~~all~~ state, county, and
36 municipal agencies and departments in developing a State
37 Emergency Plan;

38 ~~(b)~~(2) conducting a statewide preparedness program to assure
39 the capability of state, county, and municipal governments to
40 execute the State Emergency Plan;

41 ~~(c)~~(3) establishing and maintaining a State Emergency
42 Operations Center and providing support of the state emergency
43 staff and workforce; ~~and~~

- 1 (4) coordinating the State’s planning, response, and recovery
2 efforts for natural and man-made disasters;
3 ~~(d) establishing an effective system for reporting, analyzing,~~
4 ~~displaying, and disseminating emergency information.~~
5 ~~(e)~~(5) establishing an incident management system incorporating
6 the principles of the National Incident Management System
7 (NIMS) that provides for mitigation, preparedness, response to,
8 and recovery from all man-made and natural hazards;
9 (6) establishing an effective system for reporting, analyzing,
10 displaying, and disseminating emergency information;
11 (7) coordinating with the federal government, state agencies,
12 counties, and municipalities to conduct ongoing mitigation
13 programs; and
14 (8) serving as the state administrative agency for emergency
15 management grants administered by the federal government.”
16

17 SECTION 7. Section 25-1-440(a)(7) of the 1976 Code is
18 amended to read:

19
20 “(7) direct and compel evacuation of all or part of the populace
21 from ~~any~~ a stricken or threatened area if this action is considered
22 necessary for the preservation of life or other emergency
23 mitigation, response, or recovery; to prescribe routes, modes of
24 transportation, and destination in connection with evacuation; and
25 to control ingress and egress at an emergency area, the movement
26 of persons within the area, and the occupancy of premises ~~therein~~
27 within an emergency area. The authority to compel an evacuation
28 must extend beyond the time constraints of a declared state of
29 emergency and may be terminated only by an executive order;”
30

31 SECTION 8. Section 42-1-130 of the 1976 Code, as last amended
32 by Act 339 of 2002, is further amended to read:

33
34 “Section 42-1-130. The term ‘employee’ means ~~every~~ a person
35 engaged in an employment ~~under any~~ pursuant to an appointment,
36 contract of hire, or apprenticeship, expressed or implied, oral or
37 written, including aliens and also including minors, whether
38 lawfully or unlawfully employed, but excludes a person whose
39 employment is both casual and not in the course of the trade,
40 business, profession, or occupation of his employer; ~~and~~. As
41 relating to those employed by the State, the term ‘employee’
42 includes ~~all~~ members of the South Carolina State and National
43 Guard while performing duties in connection with the membership

1 except duty performed pursuant to Title 10 and Title 32 of the
2 United States Code; ~~all~~ volunteer state constables appointed
3 pursuant to Section 23-1-60, while performing duties in connection
4 with their appointments and authorized by the State Law
5 Enforcement Division; emergency support function volunteers, as
6 defined in Section 8-25-10, to the extent that their appointing
7 department has designated coverage for them; and ~~all~~ officers and
8 employees of the State, except those elected by the people, or by
9 the General Assembly, or appointed by the Governor, either with
10 or without the confirmation of the Senate;—~~and~~. As relating to
11 municipal corporations and political subdivisions of the State, the
12 term ‘employee’ includes ~~all~~ officers and employees of municipal
13 corporations and political subdivisions, except those elected by the
14 people or elected by the council or other governing body of ~~any~~ a
15 municipal corporation or political subdivision, who act in purely
16 administrative capacities and are to serve for a definite term of
17 office. ~~Any~~ A reference to an employee who has been injured or
18 ~~when the employee is dead,~~ to a deceased employee includes also
19 his legal representative, dependents, and other persons to whom
20 compensation may be payable.

21 ~~Any~~ A sole proprietor or partner of a business whose employees
22 are eligible for benefits under this title may elect to be included as
23 employees under the workers’ compensation coverage of the
24 business if they are actively engaged in the operation of the
25 business and if the insurer is notified of their election to be
26 included. ~~Any~~ A sole proprietor or partner, upon this election, is
27 entitled to employee benefits and is subject to employee
28 responsibilities prescribed in this title.”

29

30 SECTION 9. Section 42-7-65 of the 1976 Code, as last amended
31 by Act 98 of 2005, is further amended to read:

32

33 “Section 42-7-65. Notwithstanding the provisions of Section
34 42-1-40, for the purpose of this title and while serving in this
35 capacity, the total average weekly wage of the following categories
36 of employees is the following:

37 (1) for ~~all~~ members of the State and National Guard, regardless
38 of rank, seventy-five percent of the average weekly wage in the
39 State for the preceding fiscal year, or the average weekly wage the
40 service member would be entitled to, if any, if injured while
41 performing his civilian employment, if the average weekly wage in
42 his civilian employment is greater;

1 (2) for ~~all~~ voluntary firemen of organized voluntary rural fire
2 units and voluntary municipal firemen, thirty-seven and one-half
3 percent of the average weekly wage in the State for the preceding
4 fiscal year;

5 (3) for ~~all~~ members of organized volunteer rescue squads,
6 thirty-seven and one-half percent of the average weekly wage in
7 the State for the preceding fiscal year;

8 (4) for ~~all~~ volunteer deputy sheriffs, thirty-seven and one-half
9 percent of the average weekly wage in the State for the preceding
10 fiscal year; ~~and~~

11 (5) for ~~all~~ volunteer state constables appointed pursuant to
12 Section 23-1-60, while performing duties in connection with their
13 appointments and authorized by the State Law Enforcement
14 Division, thirty-seven and one-half percent of the average weekly
15 wage in the State for the preceding fiscal year; ~~and~~

16 (6) for emergency support function volunteers, as defined in
17 Section 8-25-10, who are designated by their appointing
18 department from workers' compensation coverage, while
19 performing duties in connection with their appointments and
20 authorized by the appointing agency, thirty-seven and one-half
21 percent of the average weekly wage in the State for the preceding
22 fiscal year.

23 The wages provided in items (2), (3), (4), and (5) of this section
24 may not be increased as a basis for ~~any~~ computation of benefits
25 because of employment other than as a volunteer. Persons in the
26 categories provided by items (2), (3), (4), and (5) must be notified
27 of the limitation on average weekly wages prescribed in this
28 section by the authority responsible for obtaining coverage under
29 this title.

30 'Volunteer firemen' and 'rescue squad members' mean
31 members of organized units whose membership is certified to the
32 municipal clerk or chairman of the council of the municipality or
33 county in which their unit is based by the chief officer of the unit
34 concerned. A 'volunteer deputy sheriff' is a volunteer whose
35 membership is certified by the sheriff to the governing body of the
36 county. ~~No~~ A volunteer deputy sheriff may not be included ~~under~~
37 in the provisions of this title unless approved by the governing
38 body of the county or municipality. A voluntary constable
39 appointed pursuant to Section 23-1-60 must be included ~~under~~ in
40 the provisions of this title only while performing duties in
41 connection with his appointment and as authorized by the State
42 Law Enforcement Division. The workers' compensation premiums
43 for these constables must be paid from the state general fund upon

1 warrant of the Chief of the State Law Enforcement Division.
2 Notwithstanding ~~any other~~ another provision of law, voluntary
3 firemen of organized volunteer fire units and members of
4 organized volunteer rescue squads are covered under this title by
5 the county governing body unless the governing body of the
6 county opts out of the coverage.

7 The average weekly wage for inmates of the State Department
8 of Corrections as defined in Section 42-1-480 is forty dollars a
9 week. The average weekly wage for county and municipal
10 prisoners is forty dollars a week. The average weekly wage for
11 students of high schools, state technical schools, and
12 state-supported colleges and universities while engaged in work
13 study, marketing education, or apprentice programs on the
14 premises of private companies or while engaged in the Tech Prep
15 or other structured school-to-work programs on the premises of a
16 sponsoring employer is fifty percent of the average weekly wage in
17 the State for the preceding fiscal year.”

18

19 SECTION 10. Section 59-23-210 of the 1976 Code, as added by
20 Act 87 of 2003, is amended to read:

21

22 “Section 59-23-210. (A) ~~All~~ Construction, improvement, and
23 renovation of public school buildings and property on or after the
24 effective date of this section ~~shall~~ must comply with the latest
25 applicable standards and specifications ~~set forth~~ provided in the
26 South Carolina School Facilities Planning and Construction Guide
27 as published by the South Carolina Department of Education.

28 This guide must be reviewed and updated on an annual basis by
29 a committee appointed by the South Carolina Department of
30 Education. The committee shall consist of a minimum of two
31 architects and one engineer who are all registered in South
32 Carolina and experienced in K-12 design, one K-12 school
33 administrator, one representative of the K-12 construction industry,
34 the State Fire Marshal or his designee, a representative of the
35 Traffic Engineering Division of the South Carolina Department of
36 Transportation, a representative of the South Carolina Emergency
37 Management Division, and two representatives of the South
38 Carolina Department of Education. In addition, the chairman of the
39 House of Representatives Education and Public Works Committee
40 or his designee and the Chairman of the Senate Education
41 Committee or his designee also shall ~~also~~ serve as members of the
42 committee, ex officio.

1 (B) ~~All~~ Construction, improvement, and renovation of public
2 school buildings and property on or after the effective date of this
3 section must have plans and specifications submitted to the State
4 Superintendent of Education or the superintendent's designee.
5 Approval of the plans and specifications by the State
6 Superintendent of Education or the superintendent's designee must
7 be received before public bidding ~~before the~~ and construction can
8 begin. Plans and specifications must be coordinated with county
9 officials such as traffic engineers and zoning administrators.”

10

11 SECTION 11. This act takes effect upon approval by the
12 Governor.

13

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14