University of Tennessee, Knoxville
Trace: Tennessee Research and Creative Exchange

MTAS Publications: Hot Topics | Municipal Technical Advisory Service (MTAS)

6-11-2004

Emergency Assistance and Mutual Aid in Tennessee

Ray Crouch
Municipal Technical Advisory Service

Follow this and additional works at: http://trace.tennessee.edu/utk_mtastop

Part of the Public Administration Commons

The MTAS publications provided on this website are archival documents intended for informational purposes only and should not be considered as authoritative. The content contained in these publications may be outdated, and the laws referenced therein may have changed or may not be applicable to your city or circumstances.
For current information, please visit the MTAS website at: mtas.tennessee.edu.

Recommended Citation
Crouch, Ray, "Emergency Assistance and Mutual Aid in Tennessee" (2004). *MTAS Publications: Hot Topics.*
http://trace.tennessee.edu/utk_mtastop/113

This Bulletin is brought to you for free and open access by the Municipal Technical Advisory Service (MTAS) at Trace: Tennessee Research and Creative Exchange. It has been accepted for inclusion in MTAS Publications: Hot Topics by an authorized administrator of Trace: Tennessee Research and Creative Exchange. For more information, please contact trace@utk.edu.

MTAS
Municipal Technical Advisory Service
In cooperation with the Tennessee Municipal League

#107
HOT topic

June 11, 2004

EMERGENCY ASSISTANCE AND MUTUAL AID IN TENNESSEE

Ray Crouch Sr., Fire Management Consultant

The Emergency Assistance Act of 2004 is a complete overhaul and vast improvement in mutual aid and other emergency assistance in Tennessee. Under previous laws governing mutual aid, a written agreement must have been signed and in effect prior to the occurrence of the emergency. This act actually puts a basic mutual aid agreement in place effective July 1, 2004. *Your city does not need to take any action if you want to be part of this statewide mutual aid agreement*. If, however, your local government wants the existing mutual aid agreements you have in effect to continue, you must pass a resolution authorizing their continuation **before** July 1, 2004. If you do not pass a resolution, all of your existing mutual aid agreements will be discontinued and replaced with the basic mutual aid agreement contained in the Emergency Assistance Act of 2004. This new law now provides that you have mutual aid with every governmental entity in the state of Tennessee. Keep in mind, however, that because this is a Tennessee law, it does not have any effect on out-of-state agreements, and you must continue to have other written, signed agreements with any out-of-state entities. The act defines "governmental entity" as the following:

> "Governmental entity" means any political subdivision of the state, including, but not limited to, any incorporated city or town, metropolitan government, county, utility district, school district, nonprofit volunteer fire department receiving public funds and recognized under Title 68, Chapter 102, Part 3, rescue squad, human resource agency, public building authority, airport authority, and development district, or any instrumentality of government created by one (1) or more of these named governmental entities or the general assembly, or any entity otherwise recognized by state law as a local governmental entity . . . .

The Emergency Assistance Act of 2004 greatly simplifies the mutual aid process in Tennessee. No longer do you have to have signatures on a document, unless you decide to exempt yourself out of this act by passing a resolution stating that as your intention. If a resolution exempting out of this mutual aid law is passed, you will need to revert to the old method of drafting an agreement, having all parties pass a resolution authorizing their governmental entity to participate, with all parties signing the final document.

An important point to remember is that this act provides for mutual aid among everyone mentioned in the definition. The act does not prohibit you from having contracts or interlocal agreements that provide for services with specific neighboring jurisdictions which provide for such things as automatic aid agreements, joint ventures (such as a special operations team with members from multiple jurisdictions), or service agreements that allow one city to provide specific services to another city, either free or for an agreed upon price.

Another important point is that under this agreement, there is no charge for mutual aid unless the mayor declares a local state of emergency and signs a document that provides for the state of emergency to go into effect. Without this document, mutual aid is free. In the event that the emergency becomes a major disaster, the mayor may then declare a state of emergency, at which time the charges for service begin to apply so the federal government may reimburse you and your mutual aid partners. The time that the charges begin is totally under local control. If no state of emergency is declared, no charges apply.

The act clearly states that no entity has a duty to respond. Therefore, if you are unable to send requested mutual aid, you are not liable for refusing to send assistance when requested. Liabilities are further reduced by providing that all parties enjoy the same protections when operating outside their city as they have when they are in their home jurisdiction. For an entity to respond under true mutual aid (Public Chapter 743, the Mutual Aid and Emergency and Disaster Assistance Agreement Act of 2004), as well as many other mutual aid type statutes that can be used by local government entities, there must be another governmental entity requesting assistance, not (1) just a citizen calling for service and in some cases not (2) a police officer or firefighter hearing an incident on their radio and responding as an un-requested backup to another jurisdiction. Mutual aid must be requested by one governmental entity to another, not from one person to another.

You may encounter some problems relative to liability protection if you respond to calls outside your jurisdiction without being requested by the appropriate governing jurisdiction. For instance, sometimes a city's fire or police department is called by a citizen who lives outside your corporate limits to respond to a situation that should be handled by the jurisdiction in which the caller is located, but the city does not have an agreement to protect this area. In these cases these are not mutual aid calls and would not have Governmental Tort Liability Act (GTLA) protection.

This act simplifies mutual aid in Tennessee and clearly defines the roles of the providers. To get a complete copy of the act, you can go to the Tennessee Secretary of State's Web site (http://www.state.tn.us/sos/acts/103/pub/pc0743.pdf) and download a PDF file.

MTAS

MTAS OFFICES

Knoxville (Headquarters) . . . . . (865) 974-0411

Johnson City . . . . . (423) 854-9882

Jackson . . . . . (731) 423-3710

Nashville . . . . . (615) 532-6827

Martin . . . . . (731) 587-7057

The Municipal Technical Advisory Service (MTAS) is a statewide agency of The University of Tennessee Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League to provide technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, ordinance codification, and wastewater management.

MTAS Hot Topics are information briefs that provide a timely review of current issues of interest to Tennessee municipal officials. Hot Topics are free to Tennessee local, state, and federal government officials and are available to others for $2 each. Photocopying of this publication in small quantities for educational purposes is encouraged. For permission to copy and distribute large quantities, please contact the MTAS Knoxville office at (865) 974-0411.

www.mtas.tennessee.edu

The University of Tennessee is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA institution.

MTAS0587 • E14-1050-000-143-04

THE UNIVERSITY of TENNESSEE