**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3501**

**STATUS INFORMATION**

General Bill

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

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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**

Date Body Action Description with journal page number

2/11/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\02-11-09.docx)‑11

2/11/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\02-11-09.docx)‑12

3/5/2009 House Member(s) request name added as sponsor: Vick

**VERSIONS OF THIS BILL**

[2/11/2009](file:///p:\pprever\2009-10\3501_20090211.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 23 TO TITLE 25 SO AS TO ESTABLISH THE DISASTER ASSISTANCE TRUST FUND, TO PROVIDE FOR ITS PURPOSE, SOURCE OF FUNDING, INTEREST EARNINGS, AND ADMINISTRATION, TO PROVIDE THAT AN UNEXPENDED BALANCE IN THE FUND ROLLS OVER TO THE NEXT FISCAL YEAR, TO PROVIDE FOR THE USE OF MONIES WITHIN THE FUND AND THAT THE FUND MUST BE HELD HARMLESS FROM BUDGET REDUCTIONS, AND TO PROVIDE FOR THE PROMULGATION OF REGULATIONS NECESSARY TO IMPLEMENT THE CHAPTER; TO AMEND SECTION 8‑25‑10, RELATING TO DEFINITIONS, SO AS TO DEFINE EMERGENCY SUPPORT FUNCTION VOLUNTEER; TO AMEND SECTION 8‑25‑20, RELATING TO USE OF VOLUNTEERS AND DEVELOPMENT OF PROGRAMS, SO AS TO ALLOW GOVERNMENT AGENCIES TO DEVELOP VOLUNTEER PROGRAMS TO INCLUDE EMERGENCY SUPPORT FUNCTION VOLUNTEERS; TO AMEND SECTION 8‑25‑40, RELATING TO MILEAGE, LIABILITY INSURANCE, AND PROTECTION OF SOVEREIGN IMMUNITY, SO AS TO PROVIDE THAT EMERGENCY SUPPORT VOLUNTEERS SHALL RECEIVE MILEAGE, LIABILITY INSURANCE, SOVEREIGN IMMUNITY, AND WORKERS’ COMPENSATION COVERAGE FOR SERVICE TO THE STATE AS VOLUNTEERS UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 11‑5‑230, RELATING TO AN ACCOUNT FOR MATCHING DISASTER ASSISTANCE FUNDS, SO AS TO ESTABLISH THE NAME OF THE FUND AS THE DISASTER ASSISTANCE TRUST FUND AND TO PROVIDE FOR THE PURPOSE OF THE FUND; TO AMEND SECTION 25‑1‑420, AS AMENDED, RELATING TO THE SOUTH CAROLINA EMERGENCY MANAGEMENT DIVISION OF THE OFFICE OF THE ADJUTANT GENERAL, SO AS TO PROVIDE FURTHER RESPONSIBILITIES OF THE DIVISION; TO AMEND SECTION 25‑1‑440, AS AMENDED, RELATING TO POWERS AND DUTIES OF THE GOVERNOR DURING A DECLARED EMERGENCY, SO AS TO PROVIDE THAT HIS AUTHORITY TO PROVIDE TIMING AND TERMINATION REQUIREMENTS FOR HIS AUTHORITY TO COMPEL AN EVACUATION; TO AMEND SECTION 42‑1‑130, AS AMENDED, RELATING TO THE DEFINITION OF AN EMPLOYEE, SO AS TO INCLUDE EMERGENCY SUPPORT FUNCTION VOLUNTEERS; TO AMEND SECTION 42‑7‑65, AS AMENDED, RELATING TO AVERAGE WEEKLY WAGE, SO AS TO PROVIDE FOR THE AVERAGE WEEKLY WAGE CALCULATION FOR EMERGENCY FUNCTION VOLUNTEERS; AND TO AMEND SECTION 59‑23‑210, RELATING TO CONSTRUCTION, IMPROVEMENT, AND RENOVATION OF PUBLIC SCHOOLS, SO AS TO REQUIRE THE APPOINTMENT OF A REPRESENTATIVE OF THE EMERGENCY MANAGEMENT DIVISION TO THE COMMITTEE CHARGED WITH UPDATING THE CONSTRUCTION STANDARDS GUIDE.

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

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

“CHAPTER 23

Disaster Assistance Trust Fund

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

Section 25‑23‑20. The State Treasury may accept monies for deposit to the fund in the Disaster Assistance Trust Fund from funds appropriated by the General Assembly, funds provided by the Federal Emergency Management Authority for presidential disaster declarations, and funds provided by other entities.

Section 25‑23‑30. The State Treasury shall credit earned interest to the same fund.

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

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

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

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

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

Section 25‑23‑70. The General Assembly shall hold fund balances harmless from budget reductions. Funds are designated for the nonfederal match share in a declared disaster and to fund immediate response and protection measures in a disaster.

Section 25‑23‑80. The South Carolina Emergency Management Division shall promulgate regulations necessary for the implementation and administration of the Disaster Assistance Trust Fund.”

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

“Section 8‑25‑10. As used in this chapter:

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

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

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

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

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

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

SECTION 3. Section 8‑25‑20 of the 1976 Code is amended to read:

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

Except as provided by law, volunteers recruited, trained, ~~or~~ accepted, or appointed by ~~any~~ a department ~~shall~~, to the extent of their voluntary service, ~~be~~ are exempt from ~~all~~ provisions of law relating to state employment, hours of work, rate of compensation, leave time, and employee benefits. Volunteers shall comply with applicable work rules.

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

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

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

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

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

SECTION 5. Section 11‑5‑230 of the 1976 Code is amended to read:

“Section 11‑5‑230. There is established in the Office of the State Treasurer a continuing account ~~to be~~ referred to as the Disaster Assistance Trust Fund used to ~~match disaster assistance funds when required by the federal entity providing the funds~~ pay the State’s portion of the nonfederal share of disaster assistance funds and to pay for immediate response and protection measures. The fund must be administered by the trustees as provided in Section 25‑23‑40 and established and maintained with appropriations as the General Assembly may authorize in the annual General Appropriations Act and as otherwise provided ~~herein~~ and shall continue from year to year. The State Treasurer shall hold the funds in a separate and distinct account and all interest and other income accruing on the funds must be retained in the account. The funds in the continuing account may be disbursed only upon the authorization of the Governor when a disaster or emergency is likely or imminent.

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

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

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

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

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

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

(4) coordinating the State’s planning, response, and recovery efforts for natural and man‑made disasters;

~~(d)~~ ~~establishing an effective system for reporting, analyzing, displaying, and disseminating emergency information.~~

~~(e)~~(5) establishing an incident management system incorporating the principles of the National Incident Management System (NIMS) that provides for mitigation, preparedness, response to, and recovery from all man‑made and natural hazards~~.~~;

(6) establishing an effective system for reporting, analyzing, displaying, and disseminating emergency information;

(7) coordinating with the federal government, state agencies, counties, and municipalities to conduct ongoing mitigation programs; and

(8) serving as the state administrative agency for emergency management grants administered by the federal government.”

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

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

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

“Section 42‑1‑130. The term ‘employee’ means ~~every~~ a person engaged in an employment ~~under any~~ pursuant to an appointment, contract of hire, or apprenticeship, expressed or implied, oral or written, including aliens and also including minors, whether lawfully or unlawfully employed, but excludes a person whose employment is both casual and not in the course of the trade, business, profession, or occupation of his employer~~; and~~. As relating to those employed by the State, the term ‘employee’ includes ~~all~~ members of the South Carolina State and National Guard while performing duties in connection with the membership except duty performed pursuant to Title 10 and Title 32 of the United States Code; ~~all~~ volunteer state constables appointed pursuant to Section 23‑1‑60, while performing duties in connection with their appointments and authorized by the State Law Enforcement Division; emergency support function volunteers, as defined in Section 8‑25‑10, to the extent that their appointing department has designated coverage for them; and ~~all~~ officers and employees of the State, except those elected by the people, or by the General Assembly, or appointed by the Governor, either with or without the confirmation of the Senate~~; and~~. As relating to municipal corporations and political subdivisions of the State, the term ‘employee’ includes ~~all~~ officers and employees of municipal corporations and political subdivisions, except those elected by the people or elected by the council or other governing body of ~~any~~ a municipal corporation or political subdivision, who act in purely administrative capacities and are to serve for a definite term of office. ~~Any~~ A reference to an employee who has been injured or ~~when the employee is dead,~~ to a deceased employee includes also his legal representative, dependents, and other persons to whom compensation may be payable.

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

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

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

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

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

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

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

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

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

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

‘Volunteer firemen’ and ‘rescue squad members’ mean members of organized units whose membership is certified to the municipal clerk or chairman of the council of the municipality or county in which their unit is based by the chief officer of the unit concerned. A ‘volunteer deputy sheriff’ is a volunteer whose membership is certified by the sheriff to the governing body of the county. ~~No~~ A volunteer deputy sheriff may not be included ~~under~~ in the provisions of this title unless approved by the governing body of the county or municipality. A voluntary constable appointed pursuant to Section 23‑1‑60 must be included ~~under~~ in the provisions of this title only while performing duties in connection with his appointment and as authorized by the State Law Enforcement Division. The workers’ compensation premiums for these constables must be paid from the state general fund upon warrant of the Chief of the State Law Enforcement Division. Notwithstanding ~~any other~~ another provision of law, voluntary firemen of organized volunteer fire units and members of organized volunteer rescue squads are covered under this title by the county governing body unless the governing body of the county opts out of the coverage.

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

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

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

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

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

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

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