



# House of Representatives

General Assembly

**File No. 142**

*January Session, 2005*

Substitute House Bill No. 6755

*House of Representatives, April 4, 2005*

The Committee on Public Safety and Security reported through REP. DARGAN of the 115th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING PERSONNEL TEMPORARILY ASSIGNED TO THE DEPARTMENT OF EMERGENCY MANAGEMENT AND HOMELAND SECURITY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 28-1a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) There is established a Department of Emergency Management  
4 and Homeland Security, which shall be within the Office of Policy and  
5 Management for administrative purposes only. Said department shall  
6 be the designated emergency management and homeland security  
7 agency for the state. The department head shall be the commissioner,  
8 who shall be appointed by the Governor in accordance with the  
9 provisions of sections 4-5, 4-6, 4-7 and 4-8 with the powers and duties  
10 prescribed in said sections. The commissioner shall possess  
11 professional training and knowledge consisting of not less than five  
12 years of managerial or strategic planning experience in matters relating

13 to public safety, security, emergency services and emergency response.  
14 No person possessing a record of any criminal, unlawful or unethical  
15 conduct shall be eligible for or hold such position. Any person with  
16 any present or past political activities or financial interests that may  
17 substantially conflict with the duties of the commissioner or expose  
18 such person to potential undue influence or compromise such person's  
19 ability to be entrusted with necessary state or federal security  
20 clearances or information shall be deemed unqualified for such  
21 position and shall not be eligible to hold such position. The  
22 commissioner shall be the chief administrative officer of the  
23 department and shall have the responsibility for providing a  
24 coordinated, integrated program for state-wide emergency  
25 management and homeland security. The commissioner may do all  
26 things necessary to apply for, qualify for and accept any federal funds  
27 made available or allotted under any federal act relative to emergency  
28 management or homeland security.

29 (b) With reasonable conformance to applicable federal statutes and  
30 administrative regulations of the Federal Emergency Management  
31 Agency and the requirements of the Connecticut emergency  
32 operations plan, the commissioner shall organize the department and  
33 the personnel of the department as may be necessary for the effective  
34 discharge of the authorized emergency management, civil  
35 preparedness and homeland security missions, including, but not  
36 limited to, the provisions of the Connecticut emergency operations  
37 plan and the national plan for civil preparedness. Any department  
38 personnel may be removed by the commissioner for security reasons  
39 or for incompetence, subject to reinstatement by the Employees'  
40 Review Board. The commissioner may enter into contracts for the  
41 furnishing by any person or agency, public or private, of services  
42 necessary for the proper execution of the duties of the department.  
43 Any such contract that has a cost of three thousand dollars or more  
44 shall be subject to the approval of the Attorney General.

45 (c) The commissioner shall be responsible for: (1) Coordinating with  
46 state and local government personnel, agencies, authorities and the

47 private sector to ensure adequate planning, equipment, training and  
48 exercise activities by such personnel, agencies, authorities and the  
49 private sector with regard to homeland security; (2) coordinating, and  
50 as may be necessary, consolidating homeland security  
51 communications and communications systems of the state government  
52 with state and local government personnel, agencies, authorities, the  
53 general public and the private sector; (3) distributing and, as may be  
54 appropriate, coordinating the distribution of information and security  
55 warnings to state and local government personnel, agencies,  
56 authorities and the general public; and (4) establishing standards and  
57 security protocols for the use of any intelligence information.

58 (d) The commissioner may adopt such regulations, in accordance  
59 with the provisions of chapter 54, as necessary to implement the duties  
60 of the department.

61 (e) The commissioner shall, in consultation with the bargaining unit  
62 representing state police, enter into an interagency memorandum of  
63 understanding with the Department of Public Safety and the Military  
64 Department to provide for (1) the temporary assignment and  
65 retrenchment rights of state police and employees of the Military  
66 Department to work in the department, and (2) interagency  
67 information sharing. [All such assigned employees shall be] Any such  
68 personnel temporarily assigned shall act under the [sole] direction of  
69 the commissioner. The Department of Public Safety and the Military  
70 Department, respectively, shall retain administrative control over such  
71 personnel.

72 (f) The commissioner may request and may receive from any  
73 federal, state or local agency, cooperation and assistance in the  
74 performance of the duties of the department, including the temporary  
75 assignment of personnel necessary to perform the functions of the  
76 department. Any such personnel temporarily assigned shall act under  
77 the direction of the commissioner. The federal, state or local agency  
78 shall retain administrative control over such personnel. For purposes  
79 of section 5-141d, such personnel temporarily assigned shall be

80 deemed to be acting as state employees while assigned to, and  
81 performing the duties of, the department.

82 [(f)] (g) The functions, powers, duties and, as determined to be  
83 necessary by the commissioner, personnel of the Division of Homeland  
84 Security within the Department of Public Safety and the Office of  
85 Emergency Management within the Military Department shall be  
86 transferred to the Department of Emergency Management and  
87 Homeland Security in accordance with the provisions of sections 4-  
88 38d, 4-38e and 4-39.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	28-1a

**PS**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Comptroller - Adjudicated Claims Account	GF - Cost	Potential	Potential
Emergency Management and Homeland Security; Attorney General	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes the state legally liable for the actions of any federal or local government employee who is temporarily assigned to the state Department of Emergency Management and Homeland Security (DEMHS). The state must provide legal representation to any one of these individuals in the event that he or she is subject to a civil action related to the discharge of his or her duties while temporarily assigned to DEMHS. It is anticipated that the Office of the Attorney General could handle any potential caseload increase under the bill without requiring additional resources. However, to the extent that any single action results in a settlement payment or payments, the state could incur a significant cost.

The bill also specifies the administrative role of DEMHS with respect to personnel temporarily assigned to the agency. This has no fiscal impact.

**OLR Bill Analysis**

sHB 6755

***AN ACT CONCERNING PERSONNEL TEMPORARILY ASSIGNED TO THE DEPARTMENT OF EMERGENCY MANAGEMENT AND HOMELAND SECURITY*****SUMMARY:**

This bill specifies that the Public Safety and Military departments retain administrative control over state police officers and military personnel they assign to the Department of Emergency Management and Homeland Security under any interagency memorandum of understanding. Under current law, assigned personnel are under the sole direction of the homeland security commissioner. The bill limits personnel assignments under the memorandum to temporary assignments.

The bill allows the homeland security commissioner to request and receive cooperation and assistance, including temporary assignment of personnel, from federal, state, or local agencies to perform the homeland security department functions. Assigned personnel must act under the commissioner's direction, but the assigning agency retains administrative control over them. For indemnification purposes, they are deemed to be state employees while performing department duties. This means (1) the state will hold harmless any such assigned personnel who face a civil suit for action they took in the scope of their employment if the action is not wanton, reckless, or malicious and (2) the attorney general will provide legal defense for such persons.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****Indemnification of State Employees***

Existing law requires the state to save harmless and indemnify any state officer or employee from financial loss and expense from a claim,

demand, suit, or judgment from his alleged negligence or deprivation of a person's civil rights or other acts or omissions causing damage or injury. The officer or employee must have acted in the discharge of his duties or within the scope of his employment. The protection does not apply if the conduct is wanton, reckless, or malicious. The attorney general must provide the person's defense unless he determines that it would be inappropriate and he notifies the person. If the attorney general does not provide representation, the state must pay the officer's or employee's reasonable legal fees and costs if a final decision determines that the person acted in the scope of his duties or employment and was not wanton, reckless, or malicious (CGS § 5-41d).

**COMMITTEE ACTION**

Public Safety and Security Committee

Joint Favorable Substitute

Yea 22      Nay 0