

#4

66.03125 Fire departments; mutual assistance.

(1) In this section "fire department" has the meaning given in s. 66.0314 (1) (c).

(2)

(a) Subject to sub. (3), upon the request of a fire department, the personnel of any other fire department may assist the requester within the requester's jurisdiction, notwithstanding any other jurisdictional provision.

(b) If a request for assistance is made under par. (a), payment for the requested services shall be made by one of the following methods:

1. If an agreement under s. 66.0301, or any other agreement between the parties, for the payment of such services exists, the terms of the agreement shall be followed.

2. If no agreement described under subd. 1. for the payment of such services exists, the governmental unit that receives the assistance is responsible for the personnel or equipment costs incurred by the responding agency if the responding agency requests payment of those costs.

(3) This section does not apply during a state of emergency declared by the governor under s. 323.10.

History: 2003 a. 186; 2009 a. 42.

NOTE: 2003 Wis. Act 186, which affected this section, contains extensive explanatory notes.

66.0313 Law enforcement; mutual assistance.

(1) In this section:

(a) "Law enforcement agency" has the meaning given in s. 165.83 (1) (b) and includes a tribal law enforcement agency.

(b) "Tribal law enforcement agency" has the meaning given in s. 165.83 (1) (e).

(2) Except as provided in sub. (4), upon the request of any law enforcement agency, including county law enforcement agencies as provided in s. 59.28 (2), the law enforcement personnel of any other law enforcement agency may assist the requesting agency within the latter's jurisdiction, notwithstanding any other jurisdictional provision. For purposes of ss. 895.35 and 895.46, law enforcement personnel, while acting in response to a request for assistance, shall be deemed employees of the requesting agency and, to the extent that those sections apply to law enforcement personnel and a law enforcement agency acting under or affected by this section, ss. 895.35 and 895.46 shall apply to tribal law enforcement personnel and a tribal law enforcement agency acting under or affected by this section.

(3) The provisions of s. 66.0513 apply to this section and, to the extent that s. 66.0513 applies to law enforcement personnel and a law enforcement agency acting under or affected by this section, it applies to tribal law enforcement personnel and a tribal law enforcement agency acting under or affected by this section.

(4) A law enforcement agency, other than a tribal law enforcement agency, may not respond to a request for assistance from a tribal law enforcement agency at a location outside the law enforcement agency's territorial jurisdiction unless all of the following apply:

(a) One of the following applies:

1. The governing body of the tribe that created the tribal law enforcement agency adopts and has in effect a resolution that includes a statement that the tribe waives its sovereign immunity to the extent necessary to allow the enforcement in the courts of this state of its liability under sub. (2) and s. 66.0513 or another resolution that the department of justice determines will reasonably allow the enforcement in the courts of this state of the tribe's liability under sub. (2) and s. 66.0513.

2. The tribal law enforcement agency or the tribe that created the tribal law enforcement agency maintains liability insurance that does all of the following:

a. Covers the tribal law enforcement agency for its liability under sub. (2) and s. 66.0513.

b. Has a limit of coverage not less than \$2,000,000 for any occurrence.

- c. Provides that the insurer, in defending a claim against the policy, may not raise the defense of sovereign immunity of the insured up to the limits of the policy.
3. The law enforcement agency and the tribal law enforcement agency have in place an agreement under which the law enforcement agency accepts liability under sub. (2) and s. 66.0513 for instances in which it responds to a request for assistance from the tribal law enforcement agency.
- 66.0313(4)(b)(b) The tribal law enforcement agency requesting assistance has provided to the department of justice a copy of the resolution under par. (a) 1., proof of insurance under par. (a) 2., or a copy of the agreement under par. (a) 3., and the department of justice has posted either a copy of the document or notice of the document on the Internet site it maintains for exchanging information with law enforcement agencies.

History: 1999 a. 150 ss. 81, 362, 363; Stats. 1999 s. 66.0313; 2009 a. 264.

The statutes do not permit the creation of a separate regional law enforcement agency; neither the sheriff nor the county board has power to delegate supervisory or law enforcement powers to such an agency. 63 Atty. Gen. 596.

A request for assistance may be implicit. U.S. v. Mattes, 687 F.2d 1039 (1982)