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1 **HOUSE BILL NO. 2571**

2 Offered January 13, 2025

3 Prefiled January 12, 2025

4 *A BILL to amend and reenact §§ 44-146.16 and 44-146.17 of the Code of Virginia, relating to state of*
5 *emergency; spending authority during budgetary lapse.*

6 Patron—Leftwich

7 Referred to Committee on Rules

8 **Be it enacted by the General Assembly of Virginia:**9 **1. That §§ 44-146.16 and 44-146.17 of the Code of Virginia are amended and reenacted as follows:**10 **§ 44-146.16. Definitions.**

11 As used in this chapter, unless the context requires a different meaning:

12 "Budgetary lapse" means a state of affairs in which the general appropriation act has expired, no
13 subsequent appropriation act has been passed by the general assembly to replace the expired act, and no
14 lawful appropriation authority is in effect.15 "Communicable disease of public health threat" means an illness of public health significance, as
16 determined by the State Health Commissioner in accordance with regulations of the Board of Health, caused
17 by a specific or suspected infectious agent that may be reasonably expected or is known to be readily
18 transmitted directly or indirectly from one individual to another and has been found to create a risk of death
19 or significant injury or impairment; this definition shall not, however, be construed to include human
20 immunodeficiency viruses or tuberculosis, unless used as a bioterrorism weapon. "Individual" shall include
21 any companion animal. Further, whenever "person or persons" is used in Article 3.02 (§ 32.1-48.05 et seq.) of
22 Chapter 2 of Title 32.1, it shall be deemed, when the context requires it, to include any individual.23 "Cyber incident" means an event occurring on or conducted through a computer network that actually or
24 imminently jeopardizes the integrity, confidentiality, or availability of computers, information or
25 communications systems or networks, physical or virtual infrastructure controlled by computers or
26 information systems, or information resident thereon. "Cyber incident" includes a vulnerability in information
27 systems, system security procedures, internal controls, or implementations that could be exploited by a threat
28 source.29 "Disaster" means (i) any man-made disaster, including any condition following an attack by any enemy or
30 foreign nation upon the United States resulting in substantial damage of property or injury to persons in the
31 United States including by use of bombs, missiles, shell fire, or nuclear, radiological, chemical, or biological
32 means or other weapons or by overt paramilitary actions; terrorism, foreign and domestic; cyber incidents;
33 and any industrial, nuclear, or transportation accident, explosion, conflagration, power failure, resources
34 shortage, or other condition such as sabotage, oil spills, and other injurious environmental contaminations
35 that threaten or cause damage to property, human suffering, hardship, or loss of life and (ii) any natural
36 disaster, including any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave,
37 earthquake, drought, fire, communicable disease of public health threat, or other natural catastrophe resulting
38 in damage, hardship, suffering, or possible loss of life.39 "Discharge" means spillage, leakage, pumping, pouring, seepage, emitting, dumping, emptying, injecting,
40 escaping, leaching, fire, explosion, or other releases.41 "Emergency" means any occurrence, or threat thereof, whether natural or man-made, which results or may
42 result in substantial injury or harm to the population or substantial damage to or loss of property or natural
43 resources and may involve governmental action beyond that authorized or contemplated by existing law
44 because governmental inaction for the period required to amend the law to meet the exigency would work
45 immediate and irrevocable harm upon the citizens or the environment of the Commonwealth or some clearly
46 defined portion or portions thereof.47 "Emergency services" means the preparation for and the carrying out of functions, other than functions for
48 which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting
49 from disasters, together with all other activities necessary or incidental to the preparation for and carrying out
50 of the foregoing functions. These functions include, without limitation, firefighting services, police services,
51 medical and health services, rescue, engineering, warning services, communications, radiological, chemical,
52 and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services,
53 emergency transportation, emergency resource management, existing or properly assigned functions of plant
54 protection, temporary restoration of public utility services, and other functions related to civilian protection.
55 These functions also include the administration of approved state and federal disaster recovery and assistance
56 programs.57
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59 "*Essential public service*" means law-enforcement, K through 12 education, transportation and
60 infrastructure, health care, military and emergency services, fire protection, and all offices and personnel
61 needed to maintain such services. "*Essential public service*" also includes activities needed to safeguard or
62 maintain state property if such expenditures are necessary to avoid monetary or other damages to such
63 property during a budgetary lapse.

64 "*Hazard mitigation*" means any action taken to reduce or eliminate the long-term risk to human life and
65 property from natural hazards.

66 "*Hazardous substances*" means all materials or substances that now or hereafter are designated, defined, or
67 characterized as hazardous by law or regulation of the Commonwealth or regulation of the United States
68 government.

69 "*Interjurisdictional agency for emergency management*" is any organization established between
70 contiguous political subdivisions to facilitate the cooperation and protection of the subdivisions in the work
71 of disaster prevention, preparedness, response, and recovery.

72 "*Local emergency*" means the condition declared by the local governing body when in its judgment the
73 threat or actual occurrence of an emergency or disaster is or threatens to be of sufficient severity and
74 magnitude to warrant coordinated local government action to prevent or alleviate the damage, loss, hardship,
75 or suffering threatened or caused thereby, provided, however, that a local emergency arising wholly or
76 substantially out of a resource shortage may be declared only by the Governor, upon petition of the local
77 governing body, when he deems the threat or actual occurrence of such an emergency or disaster to be of
78 sufficient severity and magnitude to warrant coordinated local government action to prevent or alleviate the
79 damage, loss, hardship, or suffering threatened or caused thereby, and provided, however, nothing in this
80 chapter shall be construed as prohibiting a local governing body from the prudent management of its water
81 supply to prevent or manage a water shortage.

82 "*Local emergency management organization*" means an organization created in accordance with the
83 provisions of this chapter by local authority to perform local emergency service functions.

84 "*Major disaster*" means any natural catastrophe, including any: hurricane, tornado, storm, high water,
85 wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or
86 drought, or regardless of cause, any fire, flood, or explosion, in any part of the United States, which, in the
87 determination of the President of the United States is, or thereafter determined to be, of sufficient severity and
88 magnitude to warrant major disaster assistance under the Stafford Act (P.L. 93-288 as amended) to
89 supplement the efforts and available resources of states, local governments, and disaster relief organizations
90 in alleviating the damage, loss, hardship, or suffering caused thereby and is so declared by him.

91 "*Political subdivision*" means any city or county in the Commonwealth and, for the purposes of this
92 chapter, the Town of Chincoteague and any town of more than 5,000 population that chooses to have an
93 emergency management program separate from that of the county in which such town is located.

94 "*Resource shortage*" means the absence, unavailability, or reduced supply of any raw or processed natural
95 resource or any commodities, goods, or services of any kind that bear a substantial relationship to the health,
96 safety, welfare, and economic well-being of the citizens of the Commonwealth.

97 "*State of emergency*" means the condition declared by the Governor when in his judgment the threat or
98 actual occurrence of an emergency or a disaster in any part of the Commonwealth is of sufficient severity and
99 magnitude to warrant disaster assistance by the Commonwealth to supplement the efforts and available
100 resources of the several localities and relief organizations in preventing or alleviating the damage, loss,
101 hardship, or suffering threatened or caused thereby and is so declared by him.

102 **§ 44-146.17. Powers and duties of Governor.**

103 A. The Governor shall be Director of Emergency Management. He shall take such action from time to
104 time as is necessary for the adequate promotion and coordination of state and local emergency services
105 activities relating to the safety and welfare of the Commonwealth in time of disasters.

106 The Governor shall have, in addition to his powers hereinafter or elsewhere prescribed by law, the
107 following powers and duties:

108 (1) To proclaim and publish such rules and regulations and to issue such orders as may, in his judgment,
109 be necessary to accomplish the purposes of this chapter including, but not limited to such measures as are in
110 his judgment required to control, restrict, allocate or regulate the use, sale, production and distribution of
111 food, fuel, clothing and other commodities, materials, goods, services and resources under any state or federal
112 emergency services programs.

113 He may adopt and implement the Commonwealth of Virginia Emergency Operations Plan, which
114 provides for state-level emergency operations in response to any type of disaster or large-scale emergency
115 affecting Virginia and that provides the needed framework within which more detailed emergency plans and
116 procedures can be developed and maintained by state agencies, local governments and other organizations.

117 He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if
118 this action is deemed necessary for the preservation of life, implement emergency mitigation, preparedness,
119 response or recovery actions; prescribe routes, modes of transportation and destination in connection with

120 evacuation; and control ingress and egress at an emergency area, including the movement of persons within
 121 the area and the occupancy of premises therein.

122 Executive orders, to include those declaring a state of emergency and directing evacuation, shall have the
 123 force and effect of law and the violation thereof shall be punishable as a Class 1 misdemeanor in every case
 124 where the executive order declares that its violation shall have such force and effect.

125 Such executive orders declaring a state of emergency may address exceptional circumstances that exist
 126 relating to an order of quarantine or an order of isolation concerning a communicable disease of public health
 127 threat that is issued by the State Health Commissioner for an affected area of the Commonwealth pursuant to
 128 Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1.

129 No rule, regulation, or order issued under this section shall have any effect beyond 45 days after the date
 130 of issuance. Unless the General Assembly takes action on the rule, regulation, or order within the 45 days
 131 during which the rule, regulation, or order is effective, the Governor shall thereafter be prohibited from
 132 issuing the same or a similar rule, regulation, or order relating to the same emergency;

133 (2) To appoint a State Coordinator of Emergency Management and authorize the appointment or
 134 employment of other personnel as is necessary to carry out the provisions of this chapter, and to remove, in
 135 his discretion, any and all persons serving hereunder;

136 (3) To procure supplies and equipment, to institute training and public information programs relative to
 137 emergency management and to take other preparatory steps including the partial or full mobilization of
 138 emergency management organizations in advance of actual disaster, to insure the furnishing of adequately
 139 trained and equipped forces in time of need;

140 (4) To make such studies and surveys of industries, resources, and facilities in the Commonwealth as may
 141 be necessary to ascertain the capabilities of the Commonwealth and to plan for the most efficient emergency
 142 use thereof;

143 (5) On behalf of the Commonwealth to enter into mutual aid arrangements with other states and to
 144 coordinate mutual aid plans between political subdivisions of the Commonwealth. After a state of emergency
 145 is declared in another state and the Governor receives a written request for assistance from the executive
 146 authority of that state, the Governor may authorize the use in the other state of personnel, equipment,
 147 supplies, and materials of the Commonwealth, or of a political subdivision, with the consent of the chief
 148 executive officer or governing body of the political subdivision;

149 (6) To delegate any administrative authority vested in him under this chapter, and to provide for the
 150 further delegation of any such authority, as needed;

151 (7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the Commonwealth
 152 require the exercise of emergency measures due to a threatened or actual disaster, to declare a state of
 153 emergency to exist;

154 (8) To request a major disaster declaration from the President, thereby certifying the need for federal
 155 disaster assistance and ensuring the expenditure of a reasonable amount of funds of the Commonwealth, its
 156 local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the
 157 disaster;

158 (9) To provide incident command system guidelines for state agencies and local emergency response
 159 organizations;

160 (10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local public
 161 safety agency responding to a disaster has suffered an extreme personal or family hardship in the affected
 162 area, such as the destruction of a personal residence or the existence of living conditions that imperil the
 163 health and safety of an immediate family member of the employee, to direct the Comptroller of the
 164 Commonwealth to issue warrants not to exceed \$2,500 per month, for up to three calendar months, to the
 165 employee to assist the employee with the hardship; **and**

166 (11) During a disaster caused by a communicable disease of public health threat for which a state of
 167 emergency has been declared pursuant to subdivision (7), to establish a program through which the Governor
 168 may purchase PPE for private, nongovernmental entities and distribute the PPE to such private,
 169 nongovernmental entities. If federal funding is available to establish and fund the program, the Governor, if
 170 necessary to comply with any conditions attached to such federal funding, shall be entitled to seek
 171 reimbursement for such purchases from the private, nongovernmental entities and may establish and charge
 172 fees to recover the cost of administering the program, including the cost of procuring and distributing the
 173 PPE. However, if federal funding is not available to establish and fund the program, the Governor shall, prior
 174 to making such purchases, receive a contract for payment for purchase from the private nongovernmental
 175 entities for the full cost of procuring and distributing the PPE, which shall include any amortized costs of
 176 administering the program. Any purchase made by the Governor pursuant to this subdivision shall be exempt
 177 from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except the Governor shall be
 178 encouraged to comply with the provisions of § 2.2-4310 when possible. The Governor shall also provide for
 179 competition where practicable and include a written statement regarding the basis for awarding any contract.
 180 Prior to implementing such a program, the Department of Emergency Management shall consult with and

181 survey private, nongovernmental entities in order to assess demand for participation in the program as well as
182 the quantity and types of personal protective equipment such entities would like to procure.

183 As used in this subdivision, "personal protective equipment" or "PPE" means equipment or supplies worn
184 or employed to minimize exposure to hazards that cause serious workplace injuries and illnesses and may
185 include items such as gloves, safety glasses and shoes, earplugs or muffs, hard hats, respirators, coveralls,
186 vests, full body suits, hand sanitizer, plastic shields, or testing for the communicable disease of public health
187 threat; and

188 *(12) To declare a state of emergency in the event of a budgetary lapse for the purpose of protecting the
189 safety and welfare of the people of the Commonwealth. Upon such a declaration of a state of emergency, the
190 Governor shall have authority to continue disbursement of funds for essential public services at levels
191 equivalent to those that were in effect in the most recently enacted general appropriation act. The spending
192 authority granted by this subdivision shall begin upon declaration of a state of emergency during a budgetary
193 lapse and shall continue until the passage of a general appropriation act by the General Assembly that is
194 enacted into law. The Governor, upon declaring a state of emergency pursuant to this subdivision, shall have
195 30 days to provide a report to the General Assembly that details his plan to continue the functioning of
196 essential public services during the budgetary lapse and to submit a budget bill to the general assembly that,
197 if enacted, would end the emergency.*

198 B. No rule, regulation, or order issued by the Governor or other governmental entity pursuant to this
199 chapter shall impose restrictions on the operation of a place of worship that are more restrictive than the
200 restrictions imposed on any other business, organization, or activity.

201 **2. That the provisions of this act shall expire two years and six months after the end of the session of
202 the General Assembly in which it is enacted unless reenacted by a subsequent session of the General
203 Assembly.**