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HOUSE BILL NO. 1189
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Public Safety
on _____)

(Patron Prior to Substitute—Delegate O'Quinn)

A BILL to amend and reenact §§ 44-146.16, 44-146.17, 44-146.18, 44-146.18:2, 44-146.18:4, 44-146.19, 44-146.21, and 44-146.28 of the Code of Virginia, relating to Emergency Services and Disaster Law; declaration of a state of preparedness.

Be it enacted by the General Assembly of Virginia:

1. That §§ 44-146.16, 44-146.17, 44-146.18, 44-146.18:2, 44-146.18:4, 44-146.19, 44-146.21, and 44-146.28 of the Code of Virginia are amended as follows:

§ 44-146.16. Definitions.

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

"Communicable disease of public health threat" means an illness of public health significance, as determined by the State Health Commissioner in accordance with regulations of the Board of Health, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or tuberculosis, unless used as a bioterrorism weapon. "Individual" shall include any companion animal. Further, whenever "person or persons" is used in Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1, it shall be deemed, when the context requires it, to include any individual.

"Cyber incident" means an event occurring on or conducted through a computer network that actually or imminently jeopardizes the integrity, confidentiality, or availability of computers, information or communications systems or networks, physical or virtual infrastructure controlled by computers or information systems, or information resident thereon. "Cyber incident" includes a vulnerability in information systems, system security procedures, internal controls, or implementations that could be exploited by a threat source.

"Disaster" means (i) any man-made disaster, including any condition following an attack by any enemy or foreign nation upon the United States resulting in substantial damage of property or injury to persons in the United States including by use of bombs, missiles, shell fire, or nuclear, radiological, chemical, or biological means or other weapons or by overt paramilitary actions; terrorism, foreign and domestic; cyber incidents; and any industrial, nuclear, or transportation accident, explosion, conflagration, power failure, resources shortage, or other condition such as sabotage, oil spills, and other injurious environmental contaminations that threaten or cause damage to property, human suffering, hardship, or loss of life and (ii) any natural disaster, including any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, communicable disease of public health threat, or other natural catastrophe resulting in damage, hardship, suffering, or possible loss of life.

"Discharge" means spillage, leakage, pumping, pouring, seepage, emitting, dumping, emptying, injecting, escaping, leaching, fire, explosion, or other releases.

"Emergency" means any occurrence, or threat thereof, whether natural or man-made, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property or natural resources and may involve governmental action beyond that authorized or contemplated by existing law because governmental inaction for the period required to amend the law to meet the exigency would work immediate and irrevocable harm upon the citizens or the environment of the Commonwealth or some clearly defined portion or portions thereof.

"Emergency services" means the preparation for and the carrying out of functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, emergency resource management, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection. These functions also include the administration of approved state and federal disaster recovery and assistance programs.

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

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

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60 government.

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

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

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

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

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

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

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

94 "*State of preparedness*" means the condition declared by the Governor when in his judgment the threat or
95 danger of a credible emergency or a disaster in any part of the Commonwealth is of sufficient severity and
96 magnitude to warrant disaster preparedness assistance by the Commonwealth to supplement the
97 preparedness efforts and pre-position available resources of the several localities and relief organizations in
98 preventing or alleviating the damage, loss, hardship, or suffering threatened or caused thereby and is so
99 declared by him.

100 **§ 44-146.17. Powers and duties of Governor.**

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

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

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

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

116 He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if
117 this action is deemed necessary for the preservation of life, implement emergency mitigation, preparedness,
118 response or recovery actions; prescribe routes, modes of transportation and destination in connection with
119 evacuation; and control ingress and egress at an emergency area, including the movement of persons within
120 the area and the occupancy of premises therein.

121 Executive orders, to include those declaring a state of emergency *or state of preparedness* and directing

122 evacuation, shall have the force and effect of law and the violation thereof shall be punishable as a Class 1
 123 misdemeanor in every case where the executive order declares that its violation shall have such force and
 124 effect.

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

129 *Any rule, regulation, or order declaring a state of preparedness under this section shall expire 15 days*
 130 *after issuance or immediately upon the declaration of a state of emergency.* No rule, regulation, or order
 131 issued under this section shall have any effect beyond 45 days after the date of issuance. Unless the General
 132 Assembly takes action on the rule, regulation, or order within the 45 days during which the rule, regulation,
 133 or order is effective, the Governor shall thereafter be prohibited from issuing the same or a similar rule,
 134 regulation, or order relating to the same emergency;

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

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

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

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

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

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

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

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

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

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

184 participation in the program as well as the quantity and types of personal protective equipment such entities
185 would like to procure.

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

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

194 **§ 44-146.18. Department of Emergency Management; administration and operational control;**
195 **coordinator and other personnel; powers and duties.**

196 A. The State Office of Emergency Services is continued and shall hereafter be known as the Department
197 of Emergency Management (the Department). Wherever the words "State Department of Emergency
198 Services" are used in any law of the Commonwealth, they shall mean the Department of Emergency
199 Management. During a declared emergency *or state of preparedness*, this Department shall revert to the
200 operational control of the Governor. The Department shall have a coordinator who shall be appointed by and
201 serve at the pleasure of the Governor and also serve as State Emergency Planning Director. The Department
202 shall employ the professional, technical, secretarial, and clerical employees necessary for the performance of
203 its functions.

204 B. The Department shall in the administration of emergency services and disaster preparedness programs:

205 1. In coordination with political subdivisions and state agencies, ensure that the Commonwealth has up-to-
206 date assessments and preparedness plans to prevent, respond to, and recover from all disasters including acts
207 of terrorism;

208 2. Conduct a statewide emergency management assessment in cooperation with political subdivisions,
209 private industry, and other public and private entities deemed vital to preparedness, public safety, and
210 security. The assessment shall include a review of emergency response plans, which include the variety of
211 hazards, natural and man-made. The assessment shall be updated annually;

212 3. Promulgate plans and programs that are conducive to adequate disaster mitigation preparedness,
213 response, and recovery programs;

214 4. Prepare and maintain a State Emergency Operations Plan for disaster *preparedness*, response, and
215 recovery operations that assigns primary and support responsibilities for basic emergency services functions
216 to state agencies, organizations, and personnel as appropriate;

217 5. Coordinate and administer disaster mitigation, preparedness, response, and recovery plans and
218 programs with the proponent federal, state, and local government agencies and related groups;

219 6. Provide guidance and assistance to state agencies and units of local government in developing and
220 maintaining emergency management and continuity of operations (COOP) programs, plans, and systems;

221 7. Make necessary recommendations to agencies of the federal, state, or local governments on preventive
222 and preparedness measures designed to eliminate or reduce disasters and their impact;

223 8. Determine requirements of the Commonwealth and its political subdivisions for those necessities
224 needed in the event of a declared emergency *or state of preparedness* which are not otherwise readily
225 available;

226 9. Assist state agencies and political subdivisions in establishing and operating training programs and
227 programs of public information and education regarding emergency services and disaster preparedness
228 activities;

229 10. Consult with the Board of Education regarding the development and revision of a model school crisis
230 and emergency management plan for the purpose of assisting public schools in establishing, operating, and
231 maintaining emergency services and disaster preparedness activities;

232 11. Consult with the State Council of Higher Education in the development and revision of a model
233 institutional crisis and emergency management plan for the purpose of assisting public and private two-year
234 and four-year institutions of higher education in establishing, operating, and maintaining emergency services
235 and disaster preparedness activities and, as needed, in developing an institutional crisis and emergency
236 management plan pursuant to § 23.1-804;

237 12. Develop standards, provide guidance, and encourage the maintenance of local and state agency
238 emergency operations plans, which shall include the requirement for a provision that the Department of
239 Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund be contacted immediately to
240 deploy assistance in the event of an emergency as defined in the emergency response plan when there are
241 victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal
242 Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be
243 victims, and the plan shall also contain current contact information for both agencies;

244 13. Prepare, maintain, coordinate, or implement emergency resource management plans and programs
245 with federal, state, and local government agencies and related groups, and make such surveys of industries,

246 resources, and facilities within the Commonwealth, both public and private, as are necessary to carry out the
247 purposes of this chapter;

248 14. Coordinate with the federal government and any public or private agency or entity in achieving any
249 purpose of this chapter and in implementing programs for disaster prevention, mitigation, preparation,
250 response, and recovery;

251 15. Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants as
252 authorized by the Governor;

253 16. Coordinate and be responsible for the receipt, evaluation, and dissemination of emergency services
254 intelligence pertaining to all probable hazards affecting the Commonwealth;

255 17. Coordinate intelligence activities relating to terrorism with the Department of State Police;

256 18. Develop an emergency response plan to address the needs of individuals with household pets and
257 service animals in the event of a disaster and assist and coordinate with local agencies in developing an
258 emergency response plan for household pets and service animals; and

259 19. Establish and maintain an Emergency Management Equity Working Group (the Working Group) to
260 ensure that emergency management programs and plans provide support to at-risk individuals and
261 populations disproportionately impacted by disasters. The Working Group shall include experts from (i) the
262 Governor's Office of Diversity, Equity, and Inclusion and other state agencies; (ii) the public at large; and (iii)
263 the private sector who have expertise related to at-risk and vulnerable populations and the threats faced by
264 such populations during a disaster.

265 The Department of Emergency Management shall ensure that all such plans, assessments, and programs
266 required by this subsection include specific preparedness for, and response to, disasters resulting from
267 electromagnetic pulses and geomagnetic disturbances.

268 C. The Department of Emergency Management shall during a period of impending emergency or,
269 declared emergency, *or state of preparedness* be responsible for:

270 1. The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual disaster;

271 2. Providing facilities from which state agencies and supporting organizations may conduct emergency
272 operations;

273 3. Providing an adequate communications and warning system capable of notifying all political
274 subdivisions in the Commonwealth of an impending disaster within a reasonable time;

275 4. Establishing and maintaining liaison with affected political subdivisions;

276 5. Determining requirements for disaster relief and recovery assistance;

277 6. Coordinating disaster response actions of federal, state and volunteer relief agencies; and

278 7. Coordinating and providing guidance and assistance to affected political subdivisions to ensure orderly
279 and timely *preparedness for*, response to, and recovery from disaster effects.

280 D. The Department of Emergency Management shall be provided the necessary facilities and equipment
281 needed to perform its normal day-to-day activities and coordinate disaster-related activities of the various
282 federal, state, and other agencies during a state of emergency *or state of preparedness* declaration by the
283 Governor or following a major disaster declaration by the President.

284 E. The Department of Emergency Management is authorized to enter into all contracts and agreements
285 necessary or incidental to performance of any of its duties stated in this section or otherwise assigned to it by
286 law, including contracts with the United States, other states, agencies and government subdivisions of the
287 Commonwealth, and other appropriate public and private entities.

288 F. The Department of Emergency Management shall encourage private industries whose goods and
289 services are deemed vital to the public good to provide annually updated preparedness assessments to the
290 local coordinator of emergency management on or before April 1 of each year, to facilitate overall
291 Commonwealth preparedness. For the purposes of this section, "private industry" means companies, private
292 hospitals, and other businesses or organizations deemed by the State Coordinator of Emergency Management
293 to be essential to the public safety and well-being of the citizens of the Commonwealth.

294 G. The Department of Emergency Management shall establish a Coordinator of Search and Rescue.
295 Powers and duties of the Coordinator shall include:

296 1. Coordinating the search and rescue function of the Department of Emergency Management;

297 2. Coordinating with local, state, and federal agencies involved in search and rescue;

298 3. Coordinating the activities of search and rescue organizations involved in search and rescue;

299 4. Maintaining a register of search and rescue certifications, training, and responses;

300 5. Establishing a memorandum of understanding with the Virginia Search and Rescue Council and its
301 respective member agencies regarding search and rescue efforts;

302 6. Providing on-scene search and rescue coordination when requested by an authorized person;

303 7. Providing specialized search and rescue training to police, fire-rescue, EMS, emergency managers,
304 volunteer search and rescue responders, and others who might have a duty to respond to a search and rescue
305 emergency;

306 8. Gathering and maintaining statistics on search and rescue in the Commonwealth;

307 9. Compiling, maintaining, and making available an inventory of search and rescue resources available in

308 the Commonwealth; and

309 10. Periodically reviewing search and rescue cases and developing best professional practices.

310 Nothing in this chapter shall be construed as authorizing the Department of Emergency Management to
311 take direct operational responsibilities from local, state, or federal law enforcement in the course of search
312 and rescue or missing person cases.

313 **§ 44-146.18:2. Authority of Coordinator of Emergency Management in undeclared emergency or**
314 **state of preparedness.**

315 In an emergency which does not warrant a gubernatorial declaration of a state of emergency *or state of*
316 *preparedness*, the Coordinator of Emergency Management, after consultation with and approval of the
317 Secretary of Public Safety and Homeland Security, may enter into contracts and incur obligations necessary
318 to prevent or alleviate damage, loss, hardship, or suffering caused by such emergency and to protect the
319 health and safety of persons and property. In exercising the powers vested by this section, the Coordinator
320 may proceed without regard to normal procedures pertaining to entering into contracts, incurring of
321 obligations, rental of equipment, purchase of supplies and materials, and expenditure of public funds;
322 however, mandatory constitutional requirements shall not be disregarded.

323 **§ 44-146.18:4. State Coordinator of Emergency Management responsible for annual Virginia**
324 **Comprehensive Emergency Management Report.**

325 A. The Department of Emergency Management (the Department) shall create a comprehensive tabulated
326 annual report, known as the Virginia Comprehensive Emergency Management Report (the Report), that shall
327 include the annual Threat Hazard Identification Risk and Assessment (THIRA) report that the Department
328 submits to the Federal Emergency Management Agency (FEMA), as well as information on the following:

329 1. The current readiness of Virginia's search and rescue efforts;

330 2. The jurisdictions that received financial assistance during the prior fiscal year because they were
331 located in an area declared to be in a state of emergency *or state of preparedness*, but not declared to be a
332 major disaster area for which federal assistance was provided, and the amount each such jurisdiction
333 received;

334 3. The status of the Commonwealth's emergency shelter capabilities and readiness;

335 4. All assets received during the prior fiscal year as a result of a law-enforcement seizure and subsequent
336 forfeiture by either a state or federal court and their estimated net worth;

337 5. The forfeiture of federal grant funding by any state agency that is required to return such funding as a
338 result of not fulfilling the specifications of a grant;

339 6. The results of the annual statewide drill conducted by the Governor in accordance with § 44-146.17:2
340 in preparation for a potential large-scale disaster;

341 7. The number and types of training and exercises related to man-made and natural disaster preparedness
342 that were conducted by the Department, the costs associated with such training and exercises, and the
343 challenges and barriers to ensuring that state and local agencies are able and ready to respond to emergencies
344 and natural disasters;

345 8. The mandates administered by state agencies and imposed on local governments, an estimate of the
346 fiscal impact of the mandates on the affected local governments, and a written justification as to why the
347 mandate should or should not be eliminated;

348 9. The status of continuity of operations programs, plans, and systems of the Commonwealth's executive
349 branch agencies. Such plans shall include a description of how the agency or institution of higher education
350 will continue to provide essential services or perform mission essential functions during a disaster or other
351 event that disrupts normal operations;

352 10. The state of the Commonwealth's emergency prevention, protection, mitigation, response, and
353 recovery efforts and the resources necessary to implement them; and

354 11. The status of emergency management response plans throughout the Commonwealth and other
355 measures taken or recommended to prevent, respond to, or recover from disasters, including acts of terrorism.
356 Information submitted in accordance with the procedures set forth in subdivision 14 of § 2.2-3705.2 shall not
357 be disclosed unless:

358 a. It is requested by law-enforcement authorities in furtherance of an official investigation or the
359 prosecution of a criminal act;

360 b. The agency holding the record is served with a proper judicial order; or

361 c. The agency holding the record has obtained written consent to release the information from the
362 Department.

363 B. The State Coordinator of Emergency Management shall compile and submit the Report to the Secretary
364 of Public Safety and Homeland Security, and shall provide copies to the Chairmen of the Senate Committee
365 on Finance and Appropriations, the Senate Committee for Courts of Justice, the House Committee on
366 Appropriations, and the House Committee on Public Safety, by November 1 of each year. All state and local
367 agencies of the Commonwealth shall provide information and assistance to the State Coordinator of
368 Emergency Management, upon request.

369 C. The Report may, with the concurrence of the Governor, include sensitive information, which shall be

370 excluded from disclosure in accordance with subdivisions 2, 3, 4, and 6 of § 2.2-3705.2 and which, if
 371 revealed publicly, would jeopardize or compromise security plans and procedures in the Commonwealth
 372 designed to protect (i) the public or (ii) public or private critical infrastructure. Any sensitive information
 373 presented to any committee of the General Assembly shall be discussed in a closed meeting as provided in
 374 subdivision A 19 of § 2.2-3711.

375 **§ 44-146.19. Powers and duties of political subdivisions.**

376 A. Each political subdivision within the Commonwealth shall be within the jurisdiction of and served by
 377 the Department of Emergency Management and be responsible for local disaster mitigation, preparedness,
 378 response, and recovery. Each political subdivision shall maintain in accordance with state disaster
 379 preparedness plans and programs an agency of emergency management which, except as otherwise provided
 380 under this chapter, has jurisdiction over and services the entire political subdivision.

381 B. Each political subdivision shall have a director of emergency management who, after the term of the
 382 person presently serving in this capacity has expired and in the absence of an executive order by the
 383 Governor, shall be the following:

384 1. In the case of a city, the mayor or city manager, who shall appoint a coordinator of emergency
 385 management with consent of council;

386 2. In the case of a county, a member of the board of supervisors selected by the board or the chief
 387 administrative officer for the county, who shall appoint a coordinator of emergency management with the
 388 consent of the governing body;

389 3. A coordinator of emergency management shall be appointed by the council of any town to ensure
 390 integration of its organization into the county emergency management organization;

391 4. In the case of the Towns of Chincoteague and West Point and of towns with a population in excess of
 392 5,000 having an emergency management organization separate from that of the county, the mayor or town
 393 manager shall appoint a coordinator of emergency services with consent of council;

394 5. In Smyth County and in York County, the chief administrative officer for the county shall appoint a
 395 director of emergency management, with the consent of the governing body, who shall appoint a coordinator
 396 of emergency management with the consent of the governing body.

397 C. Whenever the Governor has declared a state of emergency *or state of preparedness*, each political
 398 subdivision within the disaster area may, under the supervision and control of the Governor or his designated
 399 representative, control, restrict, allocate, or regulate the use, sale, production, and distribution of food, fuel,
 400 clothing, and other commodities, materials, goods, services, and resource systems which fall only within the
 401 boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political
 402 subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster,
 403 protect the health and safety of persons and property, and provide emergency assistance to the victims of such
 404 disaster. In exercising the powers vested under this section, under the supervision and control of the
 405 Governor, the political subdivision may proceed without regard to time-consuming procedures and
 406 formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance
 407 of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of
 408 equipment, purchase of supplies and materials, levying of taxes, and appropriation and expenditure of public
 409 funds.

410 D. The director of each local organization for emergency management may, in collaboration with (i) other
 411 public and private agencies within the Commonwealth or (ii) other states or localities within other states,
 412 develop or cause to be developed mutual aid arrangements for reciprocal assistance in case of a disaster too
 413 great to be dealt with unassisted. Such arrangements shall be consistent with state plans and programs and it
 414 shall be the duty of each local organization for emergency management to render assistance in accordance
 415 with the provisions of such mutual aid arrangements. Except where a mutual aid arrangement for reciprocal
 416 assistance exists between localities, no locality shall prohibit another locality from providing emergency
 417 medical services across local boundaries solely on the basis of financial considerations.

418 E. Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional
 419 emergency operations plan for its area. The plan shall include, but not be limited to, responsibilities of all
 420 local agencies and shall establish a chain of command, and a provision that the Department of Criminal
 421 Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to
 422 deploy assistance in the event of an emergency as defined in the emergency response plan when there are
 423 victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal
 424 Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be
 425 victims, and the plan shall also contain current contact information for both agencies. Such plan shall also
 426 contain provisions to ensure that the plan is applied equitably and that the needs of minority and vulnerable
 427 communities are met during emergencies. Every four years, each local and interjurisdictional agency shall
 428 conduct a comprehensive review and revision of its emergency operations plan to ensure that the plan
 429 remains current, and the revised plan shall be formally adopted by the locality's governing body. In the case
 430 of an interjurisdictional agency, the plan shall be formally adopted by the governing body of each of the
 431 localities encompassed by the agency. Each political subdivision having a nuclear power station or other

432 nuclear facility within 10 miles of its boundaries shall, if so directed by the Department of Emergency
433 Management, prepare and keep current an appropriate emergency plan for its area for response to nuclear
434 accidents at such station or facility.

435 F. All political subdivisions shall provide (i) an annually updated emergency management assessment and
436 (ii) data related to emergency sheltering capabilities, including emergency shelter locations, evacuation
437 zones, capacity by person, medical needs capacity, current wind rating, standards compliance, backup power,
438 and lead agency for staffing, to the State Coordinator of Emergency Management on or before August 1 of
439 each year.

440 G. By July 1, 2005, all localities with a population greater than 50,000 shall establish an alert and warning
441 plan for the dissemination of adequate and timely warning to the public in the event of an emergency or
442 threatened disaster. The governing body of the locality, in consultation with its local emergency management
443 organization, shall amend its local emergency operations plan that may include rules for the operation of its
444 alert and warning system, to include sirens, Emergency Alert System (EAS), NOAA Weather Radios, or
445 other personal notification systems, amateur radio operators, or any combination thereof.

446 H. Localities that have established an agency of emergency management shall have authority to require
447 the review of, and suggest amendments to, the emergency plans of nursing homes, assisted living facilities,
448 adult day centers, and child day care centers that are located within the locality.

449 **§ 44-146.21. Declaration of local emergency.**

450 A. A local emergency may be declared by the local director of emergency management with the consent
451 of the governing body of the political subdivision. In the event the governing body cannot convene due to the
452 disaster or other exigent circumstances, the director, or in his absence, the deputy director, or in the absence
453 of both the director and deputy director, any member of the governing body may declare the existence of a
454 local emergency, subject to confirmation by the governing body at its next regularly scheduled meeting or at
455 a special meeting within 45 days of the declaration, whichever occurs first. The governing body, when in its
456 judgment all emergency actions have been taken, shall take appropriate action to end the declared emergency.

457 B. A declaration of a local emergency as defined in § 44-146.16 shall activate the local Emergency
458 Operations Plan and authorize the furnishing of aid and assistance thereunder.

459 C. Whenever a local emergency has been declared, the director of emergency management of each
460 political subdivision or any member of the governing body in the absence of the director, if so authorized by
461 the governing body, may control, restrict, allocate or regulate the use, sale, production and distribution of
462 food, fuel, clothing and other commodities, materials, goods, services and resource systems which fall only
463 within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other
464 political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual
465 disaster, protect the health and safety of persons and property and provide emergency assistance to the
466 victims of such disaster, and proceed without regard to time-consuming procedures and formalities prescribed
467 by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering
468 into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of
469 supplies and materials, and other expenditures of public funds, provided such funds in excess of
470 appropriations in the current approved budget, unobligated, are available. Whenever the Governor has
471 declared a state of emergency *or state of preparedness*, each political subdivision affected may, under the
472 supervision and control of the Governor or his designated representative, enter into contracts and incur
473 obligations necessary to combat such threatened or actual disaster beyond the capabilities of local
474 government, protect the health and safety of persons and property and provide emergency assistance to the
475 victims of such disaster. In exercising the powers vested under this section, under the supervision and control
476 of the Governor, the political subdivision may proceed without regard to time-consuming procedures and
477 formalities prescribed by law pertaining to public work, entering into contracts, incurring of obligations,
478 employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes,
479 and appropriation and expenditure of public funds.

480 D. No interjurisdictional agency or official thereof may declare a local emergency. However, an
481 interjurisdictional agency of emergency management shall provide aid and services to the affected political
482 subdivision authorizing such assistance in accordance with the agreement as a result of a local or state
483 declaration.

484 E. None of the provisions of this chapter shall apply to the Emergency Disaster Relief provided by the
485 American Red Cross or other relief agency solely concerned with the provision of service at no cost to the
486 citizens of the Commonwealth.

487 **§ 44-146.28. Authority of Governor and agencies under his control in declared state of emergency**
488 **or state of preparedness.**

489 A. In the case of a declaration of a state of emergency as defined in § 44-146.16, the Governor is
490 authorized to expend from all funds of the state treasury not constitutionally restricted, a sum sufficient.
491 Allotments from such sum sufficient may be made by the Governor to any state agency or political
492 subdivision of the Commonwealth to carry out disaster service missions and responsibilities. Allotments may
493 also be made by the Governor from the sum sufficient to provide financial assistance to eligible applicants

494 located in an area declared to be in a state of emergency, but not declared to be a major disaster area for
 495 which federal assistance might be forthcoming. This shall be considered as a program of last resort for those
 496 local jurisdictions that cannot meet the full cost.

497 The Virginia Department of Emergency Management shall establish guidelines and procedures for
 498 determining whether and to what extent financial assistance to local governments may be provided.

499 The guidelines and procedures shall include the following:

500 1. Participants may be eligible to receive financial assistance to cover a percentage of eligible costs if they
 501 demonstrate that they are incapable of covering the full cost. The percentage may vary, based on the
 502 Commission on Local Government's fiscal stress index. The cumulative effect of recent disasters during the
 503 preceding twelve months may also be considered for eligibility purposes.

504 2. Only eligible participants that have sustained an emergency or disaster as defined in § 44-146.16 with
 505 total eligible costs of \$4 or more per capita may receive assistance, except that (i) any town with a total
 506 population of less than 3,500 shall be eligible for disaster assistance for incurred eligible damages of \$15,000
 507 or greater and (ii) any town with a population of 3,500 or more, but less than 5,000 shall be eligible for
 508 disaster assistance for incurred eligible damages of \$20,000 or greater and (iii) any town with a population of
 509 5,000 or greater with total eligible costs of \$4 or more per capita may receive assistance. No site or facility
 510 may be included with less than \$1,000 in eligible costs. However, the total cost of debris clearance may be
 511 considered as costs associated with a single site.

512 3. Eligible participants shall be fully covered by all-risk property and flood insurance policies, including
 513 provisions for insuring the contents of the property and business interruptions, or shall be self-insured, in
 514 order to be eligible for this assistance. Insurance deductibles shall not be covered by this program.

515 4. Eligible costs incurred by towns, public service authorities, volunteer fire departments, and volunteer
 516 emergency medical services agencies may be included in a county's or city's total costs.

517 5. Unless otherwise stated in guidelines and procedures, eligible costs are defined as those listed in the
 518 Public Assistance component of P.L. 93-288, as amended, excluding beach replenishment and snow removal.

519 6. State agencies, as directed by the Virginia Department of Emergency Management, shall conduct an
 520 on-site survey to validate damages and to document restoration costs.

521 7. Eligible participants shall maintain complete documentation of all costs in a manner approved by the
 522 Auditor of Public Accounts and shall provide copies of the documentation to the Virginia Department of
 523 Emergency Management upon request.

524 If a jurisdiction meets the criteria set forth in the guidelines and procedures, but is in an area that has
 525 neither been declared to be in a state of emergency nor been declared to be a major disaster area for which
 526 federal assistance might be forthcoming, the Governor is authorized, in his discretion, to make an allotment
 527 from the sum sufficient to that jurisdiction without a declaration of a state of emergency, in the same manner
 528 as if a state of emergency declaration had been made.

529 The Governor shall report to the Chairmen of the Senate Committee on Finance and Appropriations, the
 530 House Committee on Appropriations, and the House Committee on Finance within 30 days of authorizing the
 531 sum sufficient pursuant to this section.

532 B. Public agencies under the supervision and control of the Governor may implement their emergency
 533 assignments without regard to normal procedures, except mandatory constitutional requirements, pertaining
 534 to the performance of public work, entering into contracts, incurring of obligations, employment of temporary
 535 workers, rental of equipment, purchase of supplies and materials, and expenditures of public funds.

536 C. *An executive order declaring a state of preparedness pursuant to § 44-146.17 shall have the same*
 537 *effect as a declaration of a state of emergency for purposes of the Emergency Management Assistance*
 538 *Compact as provided by § 44-146.28:1 and mutual aid arrangements pursuant to § 44-146.19.*

539 D. Allotments may be made by the Governor from a sum sufficient to provide financial assistance to
 540 Virginia state agencies and political subdivisions responding to a declared state of emergency in another state
 541 as provided by § 44-146.17, whether or not a state of emergency *or state of preparedness* is declared in the
 542 Commonwealth pursuant to § 44-146.16.

543 ~~D.~~ E. Allotments may be made by the Governor from a sum sufficient for the deployment of personnel
 544 and materials for the Virginia National Guard and the Virginia Defense Force to prepare for a response to any
 545 of the circumstances set forth in subdivisions A 1 through 5 of § 44-75.1, whether or not a state of emergency
 546 *or state of preparedness* is declared in the Commonwealth pursuant to § 44-146.16. However, preparation
 547 authorized by this subsection shall be limited to the deployment of no more than 300 personnel and shall be
 548 limited to no more than five days, unless a state of emergency *or state of preparedness* is declared.