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HOUSE BILL NO. 639

Offered January 11, 2006

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A BILL to amend and reenact §§ 44-146.18 and 44-146.19 of the Code of Virginia, relating to local emergency directors and coordinators; emergency response training.

Patron—Phillips

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:**1. That §§ 44-146.18 and 44-146.19 of the Code of Virginia are amended and reenacted as follows:**

§ 44-146.18. Department of Emergency Services continued as Department of Emergency Management; administration and operational control; coordinator and other personnel; powers and duties.

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

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

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

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

3. Submit to the Governor and to the General Assembly, no later than the first day of each regular session of the General Assembly, an annual executive summary and report on the status of emergency management response plans throughout the Commonwealth and other measures taken or recommended to prevent, respond to and recover from disasters, including acts of terrorism. This report shall be made available to the Division of Legislative Automated Systems for the processing of legislative documents and reports. Information submitted in accordance with the procedures set forth in subdivision 4 of § 2.2-3705.2 shall not be disclosed unless:

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

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

c. The agency holding the record has obtained written consent to release the information from the State Department of Emergency Management;

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

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

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

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

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

9. Determine requirements of the Commonwealth and its political subdivisions for those necessities needed in the event of a declared emergency which are not otherwise readily available;

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

11. Consult with the Board of Education regarding the development and revision of a model school

INTRODUCED

HB639

59 crisis and emergency management plan for the purpose of assisting public schools in establishing,
60 operating, and maintaining emergency services and disaster preparedness activities;

61 12. Consult with the State Council of Higher Education in the development and revision of a model
62 institutional crisis and emergency management plan for the purpose of assisting public and private
63 two-year and four-year institutions of higher education in establishing, operating, and maintaining
64 emergency services and disaster preparedness activities;

65 13. Develop standards, provide guidance and encourage the maintenance of local and state agency
66 emergency operations plans;

67 14. Prepare, maintain, coordinate or implement emergency resource management plans and programs
68 with federal, state and local government agencies and related groups, and make such surveys of
69 industries, resources, and facilities within the Commonwealth, both public and private, as are necessary
70 to carry out the purposes of this chapter;

71 15. Coordinate with the federal government and any public or private agency or entity in achieving
72 any purpose of this chapter and in implementing programs for disaster prevention, mitigation,
73 preparation, response, and recovery;

74 16. Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants as
75 authorized by the Governor;

76 17. *Promulgate standards and guidelines for the training and certification of local emergency*
77 *management directors and coordinators;*

78 18. Coordinate and be responsible for the receipt, evaluation, and dissemination of emergency
79 services intelligence pertaining to all probable hazards affecting the Commonwealth; and

80 ~~18-19.~~ Coordinate intelligence activities relating to terrorism with the Department of State Police.

81 C. The State Department of Emergency Management shall during a period of impending emergency
82 or declared emergency be responsible for:

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

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

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

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

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

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

92 7. Coordinating and providing guidance and assistance to affected political subdivisions to ensure
93 orderly and timely response to and recovery from disaster effects.

94 D. The State Department of Emergency Management shall be provided the necessary facilities and
95 equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of
96 the various federal, state, and other agencies during a state of emergency declaration by the Governor or
97 following a major disaster declaration by the President.

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

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

109 § 44-146.19. Powers and duties of political subdivisions.

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

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

118 1. In the case of a city, the mayor or city manager, who shall have the authority to appoint a
119 coordinator of emergency management with consent of council;

120 2. In the case of a county, a member of the board of supervisors selected by the board or the chief

administrative officer for the county, who shall have the authority to appoint a coordinator of emergency management with the consent of the governing body;

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

4. In the case of the Town of Chincoteague and of towns with a population in excess of 5,000 having an emergency management organization separate from that of the county, the mayor or town manager shall have the authority to appoint a coordinator of emergency services with consent of council;

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

Each local director, and, where appropriate, coordinator of emergency management, shall be certified in emergency management in accordance with the standards and guidelines promulgated by the Department of Emergency Management pursuant to subdivision B 17 of § 44-146.18.

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

D. The director of each local organization for emergency management may, in collaboration with (i) other public and private agencies within the Commonwealth or (ii) other states or localities within other states, develop or cause to be developed mutual aid arrangements for reciprocal assistance in case of a disaster too great to be dealt with unassisted. Such arrangements shall be consistent with state plans and programs and it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements.

E. Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional emergency operations plan for its area. The plan shall include, but not be limited to, responsibilities of all local agencies and shall establish a chain of command. Each political subdivision having a nuclear power station or other nuclear facility within 10 miles of its boundaries shall, if so directed by the Department of Emergency Management, prepare and keep current an appropriate emergency plan for its area for response to nuclear accidents at such station or facility.

F. All political subdivisions shall provide an annually updated emergency management assessment to the State Coordinator of Emergency Management on or before July 1 of each year.

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