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SENATE BILL NO. 1202

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 2.2-306, 44-146.17 and 44-146.28 of the Code of Virginia, relating to emergency management and preparedness.

Patron—Wampler

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-306, 44-146.17 and 44-146.28 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-306. Secure Commonwealth Panel; membership; duties; compensation; staff.

A. The Secure Commonwealth Panel (the Panel), is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Panel shall consist of 29 34 members as follows: three members of the House of Delegates and two nonlegislative citizens to be appointed by the Speaker of the House of Delegates; three members of the Senate of Virginia and two nonlegislative citizens to be appointed by the Senate Committee on Rules; the Lieutenant Governor; the Attorney General; *the Chief Justice of the Supreme Court of Virginia*; the Assistant to the Governor for Commonwealth Preparedness, the Secretaries of Commerce and Trade, Health and Human Resources, Public Safety, Technology and Transportation; two local first responders; three local government representatives; two physicians with knowledge of public health; *four members from the business or industry sector*; and four additional members from the private sector. Except for appointments made by the Speaker of the House of Delegates and the Senate Committee on Rules, all other appointments shall be made by the Governor. Additional ex officio members may be appointed to the Panel by the Governor at his discretion. Legislative members shall serve terms coincident with their terms of office or until their successors shall qualify. Nonlegislative citizen members shall serve for terms of four years. The Assistant to the Governor of the Office shall be the chairman of the Panel.

B. The Panel shall monitor and assess the implementation of statewide prevention, preparedness, response, and recovery initiatives and where necessary to review, evaluate, and make recommendations relating to the emergency preparedness of government at all levels in the Commonwealth. Additionally, the Panel shall facilitate cabinet-level coordination among the various agencies of state government related to emergency preparedness and shall facilitate private sector preparedness and communication. The Panel shall make quarterly reports to the Governor concerning the state's emergency preparedness, response, recovery, and prevention efforts.

C. Members of the Panel shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

D. Staff support for the Panel and funding for the costs of expenses of the members shall be provided by the Office of Commonwealth Preparedness.

§ 44-146.17. Powers and duties of Governor.

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

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

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

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

He may direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life, implement emergency mitigation,

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59 preparedness, response or recovery actions; prescribe routes, modes of transportation and destination in
60 connection with evacuation; and control ingress and egress at an emergency area, including the
61 movement of persons within the area and the occupancy of premises therein.

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

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

69 Except as to emergency plans issued to prescribe actions to be taken in the event of disasters and
70 emergencies, no rule, regulation, or order issued under this section shall have any effect beyond June 30
71 next following the next adjournment of the regular session of the General Assembly but the same or a
72 similar rule, regulation, or order may thereafter be issued again if not contrary to law;

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

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

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

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

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

91 (7) Whenever, in the opinion of the Governor, the safety and welfare of the people of the
92 Commonwealth require the exercise of emergency measures due to a threatened or actual disaster, he
93 may declare a state of emergency to exist;

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

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

100 (10) Whenever, in the opinion of the Governor or his designee, an employee of a state or local
101 public safety agency responding to a manmade or natural disaster has suffered an extreme personal or
102 family hardship in the affected area, such as the destruction of a personal residence or the existence of
103 living conditions that imperil the health and safety of an immediate family member of the employee, the
104 Governor may direct the Comptroller of the Commonwealth to issue warrants not to exceed \$2,500 per
105 month, for up to three calendar months, to the employee to assist the employee with the hardship.

106 § 44-146.28. Authority of Governor and agencies under his control in declared state of emergency.

107 (a) In the case of a declaration of a state of emergency as defined in § 44-146.16, the Governor is
108 authorized to expend from all funds of the state treasury not constitutionally restricted, a sum sufficient.
109 Allotments from such sum sufficient may be made by the Governor to any state agency or political
110 subdivision of the Commonwealth to carry out disaster service missions and responsibilities. Allotments
111 may also be made by the Governor from the sum sufficient to provide financial assistance to eligible
112 applicants located in an area declared to be in a state of emergency, but not declared to be a major
113 disaster area for which federal assistance might be forthcoming. This shall be considered as a program
114 of last resort for those local jurisdictions that cannot meet the full cost. *Allotments may also be made by*
115 *the Governor from the sum sufficient to provide financial assistance to Virginia state agencies and*
116 *political subdivisions responding to a declared state of emergency in another state as provided by*
117 *§ 44-146.17, whether or not a state of emergency is declared in the Commonwealth.*

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

120 The guidelines and procedures shall include, but not be limited to, the following:

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

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

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

(4) Eligible costs incurred by towns, public service authorities, volunteer fire departments and volunteer rescue squads may be included in a county's or city's total costs.

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

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

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

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

The Governor shall report to the Chairmen of the Senate Finance Committee, the House Appropriations Committee, and the House Finance Committee within thirty days of authorizing the sum sufficient pursuant to this section. The Virginia Department of Emergency Management shall report annually to the General Assembly on the local jurisdictions that received financial assistance and the amount each jurisdiction received.

(b) Public agencies under the supervision and control of the Governor may implement their emergency assignments without regard to normal procedures (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 and expenditures of public funds.