

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 691

An Act to amend and reenact § 44-146.40 of the Code of Virginia, relating to joint local emergency planning committees.

[S 478]

Approved April 10, 1994

Be it enacted by the General Assembly of Virginia:

1. That § 44-146.40 of the Code of Virginia is amended and reenacted as follows:

§ 44-146.40. Virginia Emergency Response Council created; membership; responsibilities; immunity for local councils.

A. There is hereby created the Virginia Emergency Response Council to carry out the provisions of Title 3, Public Law 99-499.

B. The Virginia Emergency Response Council shall consist of such state agency heads or designated representatives with technical expertise in the emergency response field as the Governor shall appoint. The Governor shall designate a chairman from among its members.

C. The Virginia Emergency Response Council, known as the "Virginia Council," shall designate an appropriate state agency to receive funds provided under Title 3, Public Law 99-499.

D. The Virginia Emergency Response Council shall seek advice on policy and programmatic matters from the Hazardous Materials Emergency Response Advisory Council.

E. The Virginia Council shall adopt rules and procedures in accordance with the provisions of the Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 for the conduct of its business.

F. Any person appointed by the Virginia Emergency Response Council as a member of a local emergency planning committee shall be immune from civil liability for any official act, decision or omission done or made in performance of his duties as a member of such local council, provided that the act, decision or omission was not done or made in bad faith or with malicious intent or does not constitute gross negligence. No member of any emergency planning committee nor any state agency on behalf of such member need make a payment into the state insurance fund under § 2.1-526.8 for this purpose.

G. *Any joint emergency planning committee serving any county operating under the urban county executive form of government and serving a city with a population between 19,500 and 20,000 shall have the authority to require any facility within its emergency planning district to submit the information required and participate in the emergency planning provided for in Subtitle A of Title 3 of Public Law 99-499. For the purposes of this subsection, "facility" shall include any development or installation having an aggregate storage capacity of at least one million gallons of oil as defined in § 62.1-44.34:10, or the potential for a sudden release of 10,000 pounds or more of any other flammable liquid or gas not exempt from the provisions of § 327 of Title 3 of Public Law 99-499. This requirement shall not occur until after public notice and the opportunity to comment. The committee shall notify the facility owner or operator of any requirement to comply with this subsection.*