

1997 RECONVENED SESSION

ENROLLED

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 44-146.17, 44-146.18, and 44-146.28 of the Code of Virginia, relating to emergency relief for localities.

[H 2670]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 44-146.17, 44-146.18, and 44-146.28 of the Code of Virginia are amended and reenacted as follows:

§ 44-146.17. Powers and duties of Governor.

The Governor shall be Director of Emergency Services. He shall take such action from time to time as is necessary for the adequate promotion and coordination of state and local civilian 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 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 or other emergency mitigation, response or recovery; prescribe routes, modes of transportation and destination in connection with evacuation; and control ingress and egress at an emergency area, the movement of persons within the area and the occupancy of premises therein. Executive orders shall have the force and effect of law and the violation thereof shall be punishable as a Class 1 misdemeanor in every case where the executive order declares that its violation shall have such force and effect. Except as to emergency plans issued to prescribe actions to be taken in the event of disasters and emergencies, no rule, regulation, or order issued under this section shall have any effect beyond June ~~thirty~~ 30 next following the next adjournment of the regular session of the General Assembly but the same or a similar rule, regulation, or order may thereafter be issued again if not contrary to law;

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

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

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

(5) On behalf of the Commonwealth enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of the Commonwealth;

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

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

(8) When necessary, to request predisaster federal assistance or the declaration of a major disaster and certify the need for federal disaster assistance and to give assurance of the expenditure of a reasonable amount of funds of the Commonwealth, its local governments, or other agencies for alleviating the damage, loss, hardship, or suffering resulting from the disaster.

§ 44-146.18. Office of Emergency Services continued as Department of Emergency Services; 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 Services. Wherever the words "State Office of Emergency Services" are used in any law of this Commonwealth, they shall mean the Department of Emergency Services. During a

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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 Services shall in the administration of disaster preparedness programs:

- (1) Promulgate plans and programs which are conducive to adequate disaster preparedness programs;
- (2) Prepare and maintain a State Emergency Operations Plan relating to man-made and natural disaster concerns;
- (3) Coordinate and administer preparedness plans and programs with the proponent federal, state and local government agencies and related groups;
- (4) Provide guidance and assistance to state agencies and units of local government in designing emergency programs and plans;
- (5) 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;
- (6) 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;
- (7) Assist state agencies and political subdivisions in establishing and operating training programs and programs of public information;
- (8) Promulgate, prepare, maintain or coordinate emergency resource management plans and programs with federal, state and local government agencies and related groups, and make such surveys of industries, resources, and facilities within the Commonwealth, both public and private, as are necessary to carry out the purposes of this chapter; ~~and~~

(9) Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, mitigation, preparation, response, and recovery; *and*

(10) *Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants as authorized by the Governor.*

(c) The State Department of Emergency Services shall during a period of declared emergency be responsible for:

- (1) The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual disaster;
- (2) Providing adequate facilities for state agencies for conduct of disaster operations;
- (3) Providing an adequate communications and warning system capable of notifying all political subdivisions in the Commonwealth of an impending disaster within a reasonable time;
- (4) Establishing and maintaining liaison with affected political subdivisions;
- (5) Determining requirements for disaster relief and recovery assistance;
- (6) Coordinating disaster response actions of federal and state agencies;
- (7) Providing guidance and assistance to affected political subdivisions to ensure orderly and timely recovery from disaster effects.

(d) The State Department of Emergency Services shall be provided the necessary facilities and equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of the various federal, state, and other agencies during periods of declared emergency.

(e) The State Department of Emergency Services is authorized to enter into all contracts and agreements necessary or incidental to performance of any of its duties stated in this section or otherwise assigned to it by law.

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

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

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

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. 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 Services, 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 Services 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 Services 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.