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SENATE BILL NO. 5028

Offered August 18, 2020

Prefiled August 13, 2020

A BILL to amend and reenact §§ 32.1-13 and 44-146.17 of the Code of Virginia, relating to Emergency Services and Disaster Law; State Board of Health; emergency orders and regulations; authority over public and private elementary and secondary schools.

Patrons—Newman, Dunnivant and Ruff; Delegate: Cole, M.L.

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That §§ 32.1-13 and 44-146.17 of the Code of Virginia are amended and reenacted as follows:****§ 32.1-13. Emergency orders and regulations.**

The Board may make separate orders and regulations to meet any emergency, not provided for by general regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious, and infectious diseases and other dangers to the public life and health. *However, the Board shall not make any order or regulation pursuant to this section that in any way affects the operation of any public or private elementary or secondary school in the Commonwealth. The Board may, though, make recommendations to the Board of Education and local school divisions for addressing such emergencies.*

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

However, the Governor shall not have the authority to issue any rule, regulation, or order pursuant to this subsection that in any way affects the operation of any public or private elementary or secondary school in the Commonwealth. The Governor may, though, make recommendations to the Board of Education and local school divisions for addressing emergencies.

Executive orders, to include those declaring a state of emergency and directing evacuation, 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.

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

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 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 Management and authorize the appointment or employment of other personnel as is necessary to carry out the provisions of this chapter, and to

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59 remove, in his discretion, any and all persons serving hereunder;

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

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

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

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

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

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

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

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