

2014 Legislative Summary: Emergency Management

Norma R. Houston
UNC School of Government

The North Carolina General Assembly adjourned the 2013-14 legislative session *sine die* (from the Latin "without day") on August 20, 2014. Unless recalled to Raleigh for a special session, the General Assembly will not meet again until January 14, 2015, when a new session convenes following the November 2014 general elections. Enacted legislation related to state and local emergency management is summarized below.

Urban Search and Rescue

[S.L. 2014-27 \(H698\)](#) amends Chapter 166A by establishing a new Article 6 establishing a state Urban Search and Rescue program. The new Article (G.S. 166A-65 – G.S. 166A-69) creates the Urban Search and Rescue program within the NC Department of Public Safety (DPS). The program is administered by the Division of Emergency Management (DEM) and is comprised of contracts with response teams located strategically across the State that are able to provide 24-hour dispatch from DEM. The Secretary of DPS is authorized to establish rules for the program governing the following: standards for training, equipment, and personnel; dispatch and on-site operations guidelines; bidding and contracting procedures; reimbursement and cost-recovery procedures; evaluation criteria; delineation of roles of response teams, area coordinators, local law

enforcement, and DEM; and audit procedures. The Secretary is required to consult with the Urban Search and Rescue Team Advisory Committee in developing these regulations.

The Secretary is authorized to contract with units of local government for contract response teams, and DEM is authorized to expend funds to train and equip these teams. In the contract with local governments, the Secretary may agree to equipment loans, personnel and equipment cost reimbursement, replacement of disposable or damaged equipment, and training expenses. The Secretary may not, however, agree to provide reimbursement for standby time.

Local employees working under contract as a response team member do not become state employees for purposes of retirement, insurance, or workers' compensation (in other words, they remain local government employees). They are, however, covered under the emergency management worker liability immunity provisions of G.S. 166A-19.60 when working as a contract response team member on a mission authorized by DEM.

The legislation also establishes the Urban Search and Rescue Team Advisory Committee. Committee members are appointed by the Secretary, and the Director or Deputy Director of DEM serves as the chair. In making appointments, the Secretary must take into consideration

appointees' expertise in urban search and rescue. The Secretary must appoint one representative from each of the following organizations: each state USAR regional contract response team's chief or deputy chief, State Fire Marshall's Office, Highway Patrol, National Guard, N.C. Association of Rescue and EMS, N.C. Association of Fire Chiefs, N.C. State Firemen's Association, and N.C. Emergency Management Association. The committee must meet at least once a year, and is tasked with advising the Secretary on the USAR program.

These changes became effective July 1, 2014.

Nondisclosure of Fracking Chemicals

[Section 8 of S.L. 2014-4 \(S786\)](#) enacts the new G.S. 113-391.1 making confidential the methods or processes involved in fracking if that information qualifies as a "trade secret" under G.S. 132-1.2(1), including information concerning hydraulic fracturing fluid (defined under G.S. 113-389). The State Geologist serves as the custodian of this information. The confidential information *may* be disclosed to any officer, employee or authorized representative of a state or federal agency if the disclosure is necessary to carry out a function of that agency. The confidential information *must* be disclosed to the Division of Emergency Management which must maintain the confidentiality of the information except when necessary to carry out a proper function of the department, including emergency planning and response.

The confidential information also must be disclosed to a treating health care provider in a medical emergency as well as a fire chief who determines that an emergency exists and the information is

necessary to address the emergency. In either situation, the owner of the confidential information is entitled to require a written confidentiality agreement from the recipient of the information restricting the use of the information to emergency purposes and providing for appropriate legal remedies in the event of a breach of the agreement.

The unauthorized knowing and willful disclosure of the confidential information is punishable as a Class 1 misdemeanor, and the violator is subject to civil penalties for damages by the owner of the confidential information.

The criminal penalty established under this provision goes into effect on December 1, 2014. The remainder of the provision became effective on June 4, 2014.

Dam Safety Emergency Plans

[Section 8 of S.L. 2014- \(H369\)](#), known as the [Coal Ash Management Plan of 2014](#), amends the Dam Safety Law of 1967 (G.S. Chapter 143, Article 21, Part 3) to require owners of dams classified as either high-hazard or intermediate hazard to develop an emergency action plan. Under the new G.S. 143-215.31(a1), the plan must be submitted to the Department of Environment and Natural Resources and the Department of Public Safety within 90 days of the dam's classification as either high-hazard or intermediate hazard. The plan must include a description of potential emergency conditions and security risks, emergency response to those conditions, emergency notification procedures to aid in warning and evacuation, and a downstream inundation map depicting areas affected by the dam's failure. The dam owner is required to update the plan annually. Copies of the plan must be provided to

regional state offices and local emergency management agencies. Exempt from the public records act is information in the plan that constitutes sensitive public security information under G.S. 132-1.7 (specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities), including critical energy infrastructure information as defined by the Federal Energy Regulatory Commission pursuant to 18 C.F.R. § 333.112.

This change becomes effective when this legislation becomes law. Owners of dams already classified as high-hazard or intermediate hazard must submit emergency action plans by March 1, 2015.

Schematic Designs of Schools

Section 8.20 of the [2014 Appropriations Act \(S.L. 2014-100\)](#) incorporates the language of H1062 to require local school administrative units to provide school safety information to local law enforcement agencies and the N.C. Division of Emergency Management (DEM).

Under the new G.S. 115C-105.53, the information to be provided to local law enforcement is schematic diagrams, including digital schematic diagrams, and emergency access to key storage devices such as KNOX[®] boxes for all school buildings.¹ Schools must notify local law enforcement when substantial modifications to school facilities are made and provide law enforcement with updated access if changes are made to KNOX[®] box systems.

The information to be provided to NCDEM under the new G.S. 115C-105.54 is

¹ KNOX[®] box is a rapid entry security system.

schematic diagrams of school facilities and emergency response information requested by the Division for the School Risk Management Plan (SRMP) and the School Emergency Response Plan (SERP).

Schematic diagrams of schools are specifically exempted from the definition of a “public record” and are not open to public inspection. These diagrams are to be provided to DEM and local law enforcement by June 1, 2015.

Hazmat Fees

Section 16B.3 of the [2014 Appropriations Act \(S.L. 2014-100\)](#) amends Article 2 of Chapter 166A which governs hazardous materials emergency response. Enacting a new G.S. 166A-29.1, the legislation establishes an annual fee to be paid by persons required to report substances classified as hazardous chemicals and extremely hazardous substances under the federal Emergency Planning and Community Right-to-Know Act (EPCRA), P.L. No. 99-499 et. seq. The annual fee is \$50.00 for each hazardous chemical and \$90.00 for each extremely hazardous substance. The total annual fee is capped at \$5,000. The Division of Emergency Management is authorized to assess late fees for reports filed after the federal filing deadline. Use of the fees is limited to paying costs associated with maintaining a hazardous materials database, supporting regional hazmat response programs, and providing grants to counties for hazmat response planning and training. The legislation also amends G.S. 160A-22(a) to increase the number of regional hazmat teams from six to seven, and authorizes (but does not mandate) establishing a regional hazmat team in Moore and Lee counties.

These changes became effective on July 1, 2014 and apply to fees assessed on or after that date.

911 Back-Up PSAP

[S.L. 2014-66 \(S797\)](#) amends Article 3 of Chapter 64A which governs emergency telephone services (911 systems). The legislation requires public safety answering points (PSAPs) to comply with all of the requirements of Article 3 in order to be eligible for monthly distributions from the state 911 Fund, and authorizes the 911 Board to reduce, suspend, or terminate distributions if a PSAP is not in compliance.

The legislation also establishes back-up PSAPs, which are defined under the new G.S. 62A-40(a4) as “the capability to operate as part of the 911 System and all other features of its associated primary PSAP. The term includes a back-up PSAP that receives 911 calls only when they are transferred from the primary PSAP or on an alternate routing basis when calls cannot be completed to the primary PSAP.” PSAPs may use 911 funds to purchase dispatch equipment for back-up PSAPs. PSAPs are now required to have a plan and means for 911 call-taking in the event 911 calls cannot be received and processed in the primary PSAP. The plan must identify the alternative capability of taking the redirected 911 calls. This requirement does not obligate a PSAP to construct an alternative facility to serve as a back-up PSAP.

These changes became effective on July 9, 2014.

Background Checks for Firefighters

[S.L. 2014-27 \(H698\)](#) amends G.S. 114-19.12 to authorize criminal history checks of *current* paid or volunteer members of fire

departments or emergency medical services (under existing law, criminal history checks may be conducted on *applicants* to fire and emergency medical services departments). The legislation also clarifies the definition of a “local fire chief” for purposes of the history check statute to be the chief of any “bona fide fire department certified to the Commissioner of Insurance with at least a Class 9S rating for insurance grading purposes;” under previous law, a local fire chief was defined as a one who was the paid employee of a city.

This change is effective January 1, 2015.

Good Samaritan Law

Section 18 of the [Regulatory Reform Act of 2014 \(S734\)](#) amends G.S. 90-21.14 to clarify that, in order to be exempt from liability, a person must voluntarily and without *expectation* of compensation provide first aid or emergency health care. Previously, in order to be exempt from liability, the person must not receive compensation for emergency medical care services. As a result of this legislation, if a person voluntarily renders first aid without expecting to receive compensation and then subsequently is compensated, he or she will still be protected under the Good Samaritan statute.

This change became effective on August 15, 2014.

Record of Calls to State EOC

[Section 6.\(c\) of S.L. 2014- \(S729\)](#) requires the Division of Emergency Management to record all telephone calls received by the 24-hour Operations Center emergency hotline. The recording of each telephone call must be maintained for at least one year. Although this provision was

included in the [Coal Ash Management Plan of 2014](#), the requirement is not limited to emergency calls involving coal ash spills, but instead applies to *all* calls received by the State EOC emergency hotline.

This change is effective when this legislation becomes law.

Weapons on Educational Property

[Section 9 of S.L. 2014- \(H369\)](#) amends G.S. 14-269.2 to authorize detention officers employed and authorized by the sheriff to carry firearms to carry such weapons on public school property.

This change is effective December 1, 2014.

Emergency Waiver of Environmental Permits

Section 14.7.(i) of the [2014 Appropriations Act \(S.L. 2014-100\)](#) amends G.S. 166A-19.30(a) by adding a new subdivision (5) to grant the Governor authority under a gubernatorial State of Emergency declaration to waive state environmental document and permit requirements for emergency repairs to specific state transportation routes. The transportation routes to which this authority applies are ones that provide the sole road access to an incorporated municipality or an unincorporated inhabited area bordering the Atlantic Ocean or any coastal sound where bridge or road conditions resulting from the events leading to the declaration pose a substantial risk to public health, safety, or welfare. The Governor is authorized to make this waiver through an Executive Order, which must list the duration of the waiver and the activities to which the waiver applies. The waiver may apply to repair, protection, safety

enhancement, or replacement of the damaged transportation route; the term “replacement” specifically does *not* include activities which increase the size or capacity of the route or that are in a different location than the route that is being replaced.

This change became effective on August 2, 2014.