

Emergency Management

In the 2009 session, several legislative changes occurred to existing statutes to strengthen emergency management activities on both the state and local level. Primarily, changes consisted of increasing intergovernmental cooperation and enhancing available resources.

Emergency Management Governmental Authority

Division of Emergency Management

The Division of Emergency Management (Division) was created by the Secretary of Crime Control and Public Safety under the directive of the Emergency Management Act of 1977 (Article 1 of G.S. Chapter 166A) to coordinate statewide emergency management activities. S.L. 2009-397 (H 378) enacts a new Part 8 in Article 11 of G.S. Chapter 143B to statutorily establish the Division within the Department of Crime Control and Public Safety. The act enumerates the responsibilities of the Division to include powers and duties vested in it by G.S. Chapter 166A and those already exercised under new G.S. 143B-475(a)(11), that vests powers that were previously conferred on the Division by executive order or otherwise.

The 2009 General Assembly also expanded the responsibilities of the Division. S.L. 2009-193 (H 381) amends G.S. 166A-5(3) to designate the Division as the lead agency for the coordination of information and resources for hazard risk management with a focus on specific objectives. Hazard risk management is defined in new G.S. 166A-4(5a) as the systematic application of policies, practices, and resources to the identification, assessment, and control of risk associated with hazards affecting human health and safety and property. The act also directs the Division to administer federal and state grant funds provided for emergency management and employ technology that enables efficient and effective communication and management of resources between political subdivisions, state agencies, and other governmental entities involved in emergency management activities.

Mutual Aid Agreements

The Governor currently has the authority to establish mutual aid agreements for reciprocal emergency management aid and assistance between North Carolina and other states, as well as with the federal government. Additionally, local governments may establish mutual aid agreements with each other and, subject to the Governor's approval and concurrence of the local government's governing body, with local governments of other states. Such mutual aid agreements have become an important means for securing inter-governmental assistance during a disaster including the furnishing or exchange of needed supplies, equipment, facilities, personnel and services or the reimbursement of costs and expenses for such items. S.L. 2009-194 (H 379) amends G.S. 166A-10 to extend this authority to allow the Governor to establish mutual aid agreements between North Carolina and a local government in the state, upon concurrence with that local government's governing body. The act also clarifies that mutual aid agreements between the state's local governments and local governments of other states must be consistent with North Carolina's emergency management program and plans.

S.L. 2009-94 (H 1109) amends G.S. 160A-288 to add that a company police agency of the Department of Agriculture and Consumer Services commissioned by the Attorney General is equivalent to a municipal police department for the purposes of the statute. The act effectively authorizes the N.C. State Fairgrounds Police to enter into temporary assistance mutual aid agreements with other law enforcement agencies to enforce state laws, which in turn increases their access to resources needed during emergency management activities.

Local Government Emergency Management

Local governments are often confronted with developing adequate local emergency management plans with limited resources and technical assistance. Effective October 1, 2009, S.L. 2009-196 (H 380) amends G.S. 166A-5(3)c. to require that the Division of Emergency Management review local plans and programs at least biennially to ensure conformity with federal and state laws. The act also amends G.S. 166A-7 to expand the authorization for creating joint emergency management agencies to include formation of an agency between two or more counties or between two or more counties and one or more municipalities within the borders of those counties. Previously, the statute only allowed for the formation of joint agencies between a county and one or more municipalities within its borders. Additionally, the Division of Emergency Management is designated as the state agency charged with annually allocating federal and state funds appropriated to local emergency management agencies if an appropriation does not specify the method of allocation. The size of an allocation will be based partly on whether the local plans or programs meet state and federal standards and requirements set forth by the Division, but also partly on whether a county lacks sufficient resources to meet those requirements. Finally, the act removes the former \$1,000 annual limit on financial assistance for the operation and maintenance of a county emergency management program.

S.L. 2009-146 (S 256) clarifies the evacuation authority of local governments in a state of emergency by listing specific restrictions on the movement of people in public places that a government may enact by ordinance. The act amends G.S. 14-288.12(b) by allowing a local government to direct and compel the evacuation of all or part of the population from any stricken or threatened area within the governing body's jurisdiction; prescribe routes, modes of transportation, and destinations in connection with evacuation; and control ingress and egress of a disaster area, and the movement of people within that area. The original language of S 256 also included authorizing the control of the occupancy of premises in a disaster area, but legislators removed that broader authority prior to passage of the act. Additionally, the act amends G.S. 166A-14(a) to extend the statute's governmental immunity provisions to emergency management activities that are provided for anywhere in the General Statutes, which includes those performed by local governments.

Access to Gasoline and Emergency Supplies

S.L. 2009-195 (H 1210) enacts new G.S. 166A-6.03 to authorize the Governor, by executive order to grant limited access to a curfew area, defined as an area where ingress and egress or movement of people is restricted because of the declaration of a state of disaster or local state of emergency, for individuals who are transporting or ensuring the availability of essential goods or restoring utility services. The Governor may also waive the maximum hours of service established by the Department of Crime Control and Public Safety and any similar rules for those individuals if necessary to protect the health, safety, or economic well-being of the people and property of the state. The act requires that the Department of Crime Control and Public Safety create a certification system, for both predeclaration and postdeclaration of a disaster, for individuals who routinely provide such services. The act also provides for guidelines to include a certified company's employees under the employer's certification and for recognition of certification. Regardless of a grant of limited access to curfew areas, law enforcement or local governments may specify permissible routes of ingress and egress for certified individuals. The act also provides authority for the Governor to seek waivers of applicable federal laws to facilitate the transportation and supply of fuel in the state if the Governor has declared an abnormal market disruption for petroleum in certain emergency situations pursuant to G.S. 75-38(f). The new law specifically requires that waivers for the Clean Air Act, Reformulated Gasoline requirements, and the Federal and State Implementation Plan summertime gasoline requirements (low RVP) be sought by the Governor in these circumstances.

Other proposed legislation in 2009 addressed future anticipated fuel shortages under emergency conditions. S 811 granted the Governor authority to establish a fuel rationing system during a triggering event, which included a state of disaster, state of emergency, and an abnormal market disruption, and allowed price freezing over fuel. S 811 did not pass, but is eligible for consideration in 2010. However, Section 2.39 of the 2009 studies act, S.L. 2009-574, authorizes the Legislative Research Commission (Commission) to broadly study gasoline shortages (proposed as a required study in S 1085 and H 847) and, in particular, focus on the shortages experienced in the wake of Hurricanes Ike and Gustav in 2008. The Commission may report its findings to the 2010 session upon its convening.

Voluntary Medical Registry Program

The North Carolina Office of Emergency Management Services currently maintains a voluntary registry for medical and health responders willing to provide services during a disaster or emergency situation called SERVNC. S.L. 2009-225 (S 258) directs that a similar voluntary system be established to register functionally and medically fragile persons who would be in need of assistance during a disaster. The act amends G.S. 166A-5(3) to direct the state emergency management program to include such a registry for use by local governments to identify those individuals. Additionally, some counties have existing special medical needs voluntary registries as part of their emergency management programs, such as in Dare and Pitt counties. Correspondingly, G.S. 166A-7(d) is amended to allow local governments to coordinate voluntary registration for individuals in need of disaster assistance either through a local or state registry. The act also specifies that the information collected for the registry is confidential and must only be given to emergency response agencies, as determined by the local emergency management director, for disaster assistance.

Emergency Management Studies

The development of a Statewide Trauma System began in the 1970s when the Office of Emergency Management Services embarked on evaluating the ability of hospitals throughout the state to care for patients suffering from traumatic injuries. Since its inception, periodic legislative changes and increased funding have advanced the state's progress towards a comprehensive trauma system. Section 2.31 of the Studies Act of 2009 (S.L. 2009-574) authorizes the Legislative

Research Commission (Commission) to study statutes and regulations pertaining to the Statewide Trauma System to determine if further changes are necessary, identify gaps with respect to funding and service delivery, assess financial viability, and determine the appropriate annual appropriation by the state.

Section 2.62 of the 2009 studies act allows the Commission to study whether and to what extent the security and emergency services at the state legislative buildings and grounds need updating.

The Commission may report to the General Assembly on both studies upon the convening of the 2010 session.

Emergency Management Personnel and Resources

Protect Search and Rescue Animals

Effective for offenses committed on or after December 1, 2009, S.L. 2009-460 (H 1098) amends G.S. 14-163.1 to provide the same protections to search and rescue animals as those provided to law enforcement agency animals and animals that assist individuals with disabilities. Under the act, any person who knows or has reason to know that an animal is a search and rescue animal and who willfully:

- Kills that animal is guilty of a Class H felony;
- Causes or attempts to cause serious harm to that animal is guilty of a Class I felony;
- Causes or attempts to cause harm to that animal is guilty of a Class 1 misdemeanor; and
- Generally harasses or obstructs that animal in performance of its duties is guilty of a Class 2 misdemeanor.

The act requires that, in addition to other expenses, a convicted defendant must pay to a person, group, or law enforcement agency responsible for the animal the salary of a search and rescue animal handler because of services lost during the time the handler is with the animal receiving training or retraining. Additionally, the act amends G.S. 15A-1340.16(d)(6a) to add that an offense committed against, or that proximately causes serious harm or death to, a search and rescue animal while engaged in the performance of the animal's official duties is to be considered an aggravating factor in sentencing.

Emergency Management Certification Program

S.L. 2009-192 (H 377) enacts a new Article 5 in G.S. Chapter 166A to direct the Division of Emergency Management (Division) to establish the Emergency Management Certification Program as a voluntary program to strengthen and enhance the competencies of emergency management personnel in state and local emergency management agencies. The Division must establish standards and guidelines for administration of the program, including creating experience, education and training standards to qualify for particular levels of certification ranging from entry level to advanced, and approving of instructors, materials, and modes of program delivery. The act authorizes the consultation and cooperation with other agencies and entities in developing the program and requires that the Division study and report on compliance with federal guidance, training, educational, and technical assistance, and equipment needs of state and local emergency management agencies. The Department of Crime Control and Public Safety must establish and appoint the Emergency Management Training and Standards Advisory Board to provide oversight of the training and certification programs. The act also provides for certification procedures. Newly enacted G.S. 166A-57 specifies that individuals with advanced certification are subject to at least 24 hours of continuing education requirements and out-of-state individuals may be issued documentation of certification if their qualifications are substantially equivalent to this state's requirements at the date of registration or certification. Certifications must be renewed every five years, but any certification that automatically expires after five years may be reinstated

by the Advisory Board upon the person showing good cause. However, the act prohibits reinstatement of certifications that have been expired for more than five years.

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