

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

921B0176

HOUSE BILL NO. 1160

Introduced by: Representatives Duvall, Brunner, Chaffee, Chase, Finck, Goodwin, Livermont, Marty, Otten (Herman), Peterson (Kent), Post, Qualm, Ring, Schoenfish, and Smith (Jamie) and Senators Cammack, Blare, Ewing, Greenfield (Brock), Maher, Rusch, Steinhauer, and Wismer

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding emergency
2 management.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-48A-1 be amended to read:

5 34-48A-1. Terms used in this chapter mean:

6 (1) "Secretary," the secretary of the Department of Public Safety;

7 (2) "Disaster," any natural, nuclear, man-made, war-related, or other catastrophe
8 producing phenomena in any part of the state which, in the determination of the
9 Governor, causes damage of sufficient severity and magnitude to warrant all state
10 assistance that is reasonably available, above and beyond emergency resource
11 commitments;

12 (3) "Emergency," any natural, nuclear, man-made, war-related, or other catastrophe
13 producing phenomena in any part of the state which in the determination of the
14 Governor requires the commitment of less than all available state resources to



1 supplement local efforts of political subdivisions of the state to save lives and to
2 protect property, public health, and safety or to avert or lessen the threat of a disaster;

3 (4) "Emergency management," the preparation for and the carrying out of all emergency
4 functions, other than functions for which military forces are primarily responsible,
5 to prevent, minimize, repair injury and damage resulting from disasters caused by
6 enemy attack, sabotage, or other hostile action, fire, flood, snowstorm, windstorm,
7 tornado, cyclone, drought, earthquake, or other natural causes and provide for the
8 relief of distressed humans and livestock in areas where such conditions prevail
9 whether affecting all or only a portion of the state. These functions include, without
10 limitation, fire fighting services, police services, medical and health services,
11 hazardous materials, search and rescue, engineering, warning, communications,
12 radiological, chemical, and other special weapons of defense, evacuation of persons
13 or livestock, emergency welfare services, emergency transportation, existing or
14 properly assigned functions of plant protection, temporary restoration of public utility
15 services, and other functions related to civilian or livestock protection, together with
16 other activities necessary or incidental to the preparation for any carrying out of the
17 foregoing functions including cooperation with the federal government, county and
18 tribal governments, national relief organizations, public or private organizations, and
19 persons;

20 (5) "Emergency management worker," any full or part- time paid, volunteer or auxiliary
21 employee of this state, or other state, territory, possession, or the District of
22 Columbia, of the federal government, or any neighboring county, or of any political
23 subdivision thereof, or of any agency or organization, performing services at any
24 place in this state subject to the order or control of, or pursuant to a request of, the

1 state government or any political subdivision thereof;

2 (6) "Hazardous material," any material, including ~~but not limited to~~, explosives,
3 flammable liquids, flammable compressed gas, flammable solids, oxidizing
4 materials, poisons, corrosive materials, and radiological materials, the loss of control
5 or mishandling ~~of which~~ that could cause personal injury or death to humans or
6 damage to property or the environment;

7 (7) "Local effort," the expenditure for emergency or disaster purposes within the twelve-
8 month period preceding the date of the request, ~~of an amount equal to two mills of~~
9 ~~the assessed valuation, exclusive of capital asset purchases, in each county for the~~
10 ~~assessment date preceding the date of the request under an emergency or disaster~~
11 ~~declaration by the Governor;~~

12 (8) "Local organization for emergency management," an organization created in
13 accordance with the provisions of this chapter by state or local authority to perform
14 local emergency management functions;

15 (9) "Political subdivision," counties, townships, Indian tribes, and municipalities; and

16 (10) "Search and rescue," the preparation and carrying out of search for and rescue of
17 persons.

18 Section 2. That § 34-48A-5 be amended to read:

19 34-48A-5. In the event of disaster, war, act of terrorism as defined in state law, or emergency
20 that is beyond local government capability, the Governor:

21 (1) May assume direct operational control over all or any part of the emergency
22 management functions within the state ~~which~~ that may affect all or any portion of the
23 state;

24 (2) May declare an emergency or disaster to exist in the stricken area and employ

- 1 emergency management to assist local authorities to affect relief and restoration;
- 2 (3) May call upon and use any facilities, equipment, other nonmedical supplies, and
3 resources available from any source, other than personal or private funds, in order to
4 carry out the purposes of this chapter by contributing to the expense incurred in
5 providing relief in ~~such~~ amounts as the Governor shall determine. However, nothing
6 in this subdivision may be construed to authorize the taking of firearms, as defined
7 in subdivision 22-1-2(16), without the consent of the owner;
- 8 (4) May suspend the provisions of any rules of any state agency, if strict compliance with
9 the provisions of the rule would in any way prevent, hinder, or delay necessary action
10 in managing a disaster, war, act of terrorism, or emergency, including fire, flood,
11 earthquake, severe high and low temperatures, tornado storm, wave action, oil spill,
12 or other water or air contamination, epidemic, blight, drought, infestation, explosion,
13 riot, disorderly conduct, protests, or hostile military or paramilitary action, ~~which that~~
14 is determined by the Governor to require state or state and federal assistance or
15 actions to supplement the recovery efforts of local governments in alleviating the
16 damage, loss, hardship, or suffering caused thereby;
- 17 (5) May control the ingress and egress in a designated disaster or emergency area, the
18 movement of vehicles upon highways within the area, the movement of persons
19 within the area, and the occupancy of premises within the area;
- 20 (6) May procure, acquire, store, distribute, and dispense any pharmaceutical agents or
21 medical supplies located within the state as may be reasonable and necessary to
22 respond to the disaster, emergency, or act of terrorism;
- 23 (7) May appoint and prescribe the duties of such out-of-state health care providers as
24 may be reasonable and necessary to respond to the disaster, emergency, or act of

1 terrorism;

2 (8) May provide for the examination and safe disposal of any dead body as may be
3 reasonable and necessary to respond to the disaster, emergency, or act of terrorism;
4 and

5 (9) May provide for the protection, construction or reconstruction, repair, and
6 maintenance of public or private ~~transportation~~ facilities.

7 The powers granted to the Governor under this section shall remain in effect for a period of
8 six months and may be restored for one or more successive six-month periods by declaration
9 of the Governor that the conditions permitting ~~such~~ these powers persist.

10 Section 3. That § 34-48A-30 be amended to read:

11 34-48A-30. In order to qualify for state financial assistance to meet the costs of an
12 emergency or disaster declared by the Governor, a county shall meet the minimum standard of
13 local effort ~~as specified in subdivision 34-48A-1(7)~~ of an amount equal to one-half of a mill of
14 the assessed valuation, exclusive of capital asset purchases, in each county for the assessment
15 date preceding the date of the request under an emergency or disaster declaration by the
16 Governor. Amounts expended by cities within the county shall be considered included within
17 the local effort required by this section.

18 Section 4. That § 34-48A-32 be amended to read:

19 34-48A-32. ~~In those counties in which~~ If the Governor has officially declared an emergency
20 or disaster in a county and in which if local effort requirements have been met, the state ~~will~~
21 shall provide financial assistance for such additional operational costs needed for the particular
22 emergency or disaster situation ~~up to a maximum of sixty percent of additional local effort~~
23 ~~expenditures; provided, however, that the Governor upon finding it necessary for the~~
24 ~~preservation of life and property may authorize additional state financial assistance.~~