

# Emergency Management

The most significant change made to emergency management provisions during the 2008 session was the General Assembly's decision to provide private entities responding during emergencies with the same immunity given to emergency workers. Several other changes made during the session include changes to the 911 Board and to emergency management personnel benefits. Steps taken to address the drought, the most pressing natural disaster facing the state during the 2008 legislative session, are discussed in Chapter 11, "Environment and Natural Resources."

## Liability Protection for Private Entities

The General Assembly took steps to remove any disincentive for private corporations to help provide resources in the event of an emergency. On the recommendation of the Joint Select Committee on Governmental Immunity and the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery, S.L. 2008-200 (S 1766) amends G.S. 166A-14 to provide immunity from liability for firms, partnerships, associations, or corporations when the entity is providing disaster assistance. This immunity protects an entity from liability for the death or injury of any person or for property damage that results from the entity's activities. In order to qualify for the protection, the entity must meet several conditions. The entity must provide assistance for free or only charge for actual expenses, and the entity must be responding to an officially declared emergency and acting under the direction of the state or local government. Specifically, one of the following conditions must exist: (1) emergency management services are being provided in the state during a state of disaster or state of emergency declared by the Governor and the services must be provided under the direction and control of the Secretary of the Department of Crime Control and Public Safety or the Governor; (2) emergency management services are being

provided during a local state of emergency and the services are provided under the direction and control of municipality's governing body, a county's governing body, or a board of county commissioners; or (3) the entity is providing planning, preparation, training, or exercises related to emergency management services or measures with the Division of Emergency Management, Division of Public Health, or the governing body of the municipality or county.

The immunity does not apply if the entity's action or omission is the cause of the emergency or disaster or is the reason that emergency management measures are needed. If an entity has liability insurance, immunity is waived by the entity to the extent of the indemnification by insurance. The act also prohibits an insurer from excluding from coverage under an entity's liability policy acts or omissions for which the entity would be liable only to the extent indemnified by insurance as provided in the act.

## 911 Changes

Several changes were made to the 911 Board, established during the 2007 session. S.L. 2008-134 (S 1704) amends G.S. 62A-44 to remove the specific percentage amounts allocated from the 911 Fund for reimbursements to Commercial Mobile Radio Service (CMRS) providers and as monthly distributions and grants to public safety answering points (PSAPs). The statute now provides that the percentage of the funds remitted by CMRS providers allocated to CMRS providers and PSAPs must be set by the 911 Board and may be adjusted by the board to ensure full cost recovery for CMRS providers and for distributions to primary PSAPs, to the extent there are excess funds.

The act also amends G.S. 62A-46 to clarify that the Eastern Band of Cherokee Indians is an eligible PSAP. The Tribal Council is required to give the 911 Board adequate information for the determination of the Eastern Band's base amount, and the board must use the most recent federal census estimate of the population living on the Qualla Boundary to determine the per capita distribution amount. These amounts will be used to calculate the monthly distribution to the Eastern Band from the 911 Fund.

## Emergency Personnel

### State Highway Patrol Funeral Expenses

S.L. 2008-142 (S 1100) amends G.S. 143B-476 to authorize the Secretary of the Department of Crime Control and Public Safety to use up to \$10,000 in available funds to reimburse a family for the funeral expenses of a member of the State Highway Patrol who is killed in the line of duty. This provision expires on June 1, 2009. The Department is also directed to study whether the Secretary should be authorized to reimburse the family for funeral expense of a *state law enforcement officer* killed in the line of duty and report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee by January 1, 2009. More information can be found in Chapter 19, "Public Employment."

### City Firefighters Overtime Pay

S.L. 2008-151 (S 963) enacts new Article 14A of G.S. Chapter 160A establishing overtime for municipal firefighters. More information can be found in Chapter 19, "Public Employment."

### Extended Fire and Rescue Death Benefits

S.L. 2008-163 (H 1563) amends G.S. 143-166.2 to include fire or rescue instructors conducting training outside of their home departments in those who are eligible for line-of-duty death benefits. More information can be found in Chapter 19, "Public Employment."

## Disaster Recovery and Business Continuity

S.L. 2008-107 (H 2436) requires the State Chief Information Officer (CIO) to determine whether state agencies (excluding the General Assembly, Judicial Department, and University of North Carolina) have made the preparations necessary for backing up critical applications. If backup is not sufficient to minimize disruptions in critical state services caused by a man-made or natural disaster, the CIO must work with agencies and the Office of State Budget and Management to develop plans to use

the Western Data Center to provide backup. The CIO must report to the Joint Legislative Oversight Committee on Information and Technology by December 1, 2008.

## Budget Provisions

Section 22.2 of the appropriations act (S.L. 2008-107) increases the amount allocated from the General Assembly for the annual appropriation to the State Fire Protection Grant Fund from \$3.88 million to \$4.18 million. The Fund is used to provide compensation for local fire protection of state-owned buildings.

The act also appropriates \$698,940 in nonrecurring funding to the Office of Education Services for the purchase of a new telephone/campuswide emergency system for the Governor Morehead School for the Blind.

North Carolina currently has seven Hazardous Materials (HAZMAT) Regional Response Teams. In December 2006, the Governor's HAZMAT Task Force recommended that to ensure adequate statewide coverage for hazardous material emergencies funding should be provided to support the operating needs and equipment replacement for the teams. The appropriations act appropriates \$200,000 in nonrecurring funds for this purpose.

## Studies

S.L. 2008-181 (H 2431) continues the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery. The committee now must submit its final report by December 31, 2009.

S.L. 2008-162 (H 2432) directs the Division of Emergency Management, in consultation with the North Carolina Association of County Commissioners, to study ways and develop plans to increase the capabilities of counties to plan for, respond to, and manage disasters at the local level. The act enumerates issues that must be addressed in the plans, including mandating the establishment of emergency management agencies at the county level and implementing an emergency management certification requirement for all local emergency management coordinators and other essential personnel. The Division must report to the chairs of the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery and the chairs of the House and Senate Appropriations Subcommittees on Natural and Economic Resources by December 1, 2008.

*Christine B. Wunsche*