

OFFICE OF SENATOR RICHARD T. MOORE

SECTION-BY-SECTION SUMMARY

An Act Making Appropriations for the Fiscal Year 2008 to Provide Funding to Support Pandemic Preparation and Response in the Commonwealth

Sponsor: Moore

Section 2. Appropriations – For costs including, but not limited to antiviral meds, ventilators, beds, “green status” designation for state labs, disease tracking system, to develop plans for infectious disease outbreak, for protective equipment and response materials for first responders, for support and development of local and regional planning – total amount - \$36,500,000.

- \$750,000 – re-establishment of Office of Local Health Services in DPH
- \$150,000 – New England INDEX for emergency preparedness for disabled
- \$140,000 – for DPH to study public health emergency preparedness in MA
- \$1,500,000 – for hiring pandemic influenza planners for each of state’s 15 emergency preparedness regions
- \$250,000 – early warning Avian and Zoonotic disease surveillance, preparedness and response planning programs at Tufts
- \$1,000,000 – for home health organizations for purchase of protective equipment

Section 3. Gives Secretary of Administration and Finance authority to promulgate regulations for immunity and indemnification of designated state/local employees and volunteers from civil liability for uninsured loss and reasonable expenses arising from a good faith effort to render emergency care, treatment or other assistance provided such actions are not grossly negligent.

Section 4. Mandates commissioner of DPH to establish an Office of Local Health Services to provide coordination of state health policies with local public health to provide assistance and build a regional network with public health agencies, providers and emergency agencies.

Section 5. Definitions

Section 6. DPH, Bd. of Registration in Pharmacy and a representative from the National Assoc. of Chain Drug Stores shall study feasibility of statewide pharmacy and drug store electronic communication network – which may be used to track pandemic disease.

Section 7. Under chapter 17, section 2a of the MGL, which grants the commissioner of DPH emergency powers, this repeals the requirement that the commissioner get approval from the governor and public health council before taking action or establishing procedures upon declaration by the governor that a public health emergency exists. It grants the commissioner authority to make expenditures deemed necessary – not to exceed \$25 million without legislative appropriation. It also gives the governor authority to activate the state comprehensive emergency management plan. In addition, it grants immunity from liability for any persons rendering assistance during a declared public health emergency. Also grants immunity from civil liability to those who own or control real estate and permit use of property to assist in responding to an emergency.

Section 8.

- Gives the commissioner the authority, if necessary to protect public health, to direct local govt. agencies to exercise authority relative to: entry onto private property for investigation; close, direct and compel evacuation of building or facility; decontaminate; prohibit assemblage of persons; use of health care facilities; control ingress or egress into any stricken or threatened public area; enforce measures for safe disposal of infectious waste and human remains; procure, store or distribute any anti-toxins, serums, vaccines, immunizing agents, antibiotics, etc...; require health care providers to assist in vaccination, treatment examination or testing; waive licensing requirements for health care professionals; allow for dispensing of controlled substances; authorize medical examiner to appoint and prescribe duties; collect specimens and perform tests; isolate or quarantine individuals or groups; care for emerging mental health crisis.
- Furthermore, the commissioner may exercise or direct or authorize other local govt. agencies to exercise the authority to vaccinate and treat exposed individuals.
- The Commissioner may request assistance from public safety authority, who then may request assistance from the National Guard, army national guard, air national guard, or other military force.
- All local agencies engaged in responding shall consult and cooperate in: exercise of powers over routes of transportation, materials and facilities; informing people of Commonwealth about how to protect themselves.

Section 9. This establishes the Public Health Emergency Fund. Monies of fund are to be expended to pay liabilities incurred by EOHHS, acting through the commissioner, in meeting a declared public health emergency in its aftermath, and may be used to reimburse other state or local agencies. When an emergency is declared, the governor may direct the comptroller to transfer up to \$25 million from the general fund to the Public Health Emergency Fund, provided the governor first determines that no appropriation or other authorization for expenditure is available. The state auditor shall conduct a review of all expenditures made within 90 days of termination.

Section 10. This gives the public health authority the authority to destroy property when necessary for protection of public health. However, prior to destruction the authority must institute appropriate civil proceedings against the property to be destroyed on accordance with existing laws and rules of the courts. Any person aggrieved shall receive appropriate compensation.

Section 11. Expands DPH's universe of investigation from causes of disease to "causes of disease and adverse health events..." M.G.L. ch. 111, sec. 5

Section 12. Grants the commissioner, specifically (rather than DPH generally) the authority to establish requirements for registration of radiologic technologists, establish ethical standards, set continuing education requirements, evaluate qualifications of applicants, investigate complaints and grant licenses.

Section 13. Expands DPH's universe of what they define as dangerous to public health and the regulations that they draft for control and prevention from "diseases" to "diseases, injuries, health conditions, and threats to health." M.G.L. ch. 111, sec. 6.

Section 14. Gives DPH authority to specify responsibilities of health care providers, medical examiners, local boards of health and others to report diseases, injuries, health conditions, and threats to health specified by the Department. DPH may also specify responsibilities of pharmacists to report unusual or increased prescription rates, unusual trends, etc. . . Records of all reports shall be kept by every board of health. Information collected on an individual's health shall not be considered a public record. Such information shall be kept confidential except when necessary for disease investigation, control, treatment and prevention. Refusal to file reports required by this section may result in a fine of not more than \$2,000.

Section 15. Mandates DPH to make an investigation of disease and means of preventing its spread, and to consult with local authorities when a condition dangerous to public health exists. Also gives DPH authority to access medical records and other information necessary.

Section 16. Gives local boards of public health authority exclusive authority to supervise and oversee officers, agents and assistants. This authority preempts any ordinance, by-law, regulation or other state or local law.

Section 17. Repeals the requirement in M.G.L. ch. 111, sec. 94A that board of health certified persons are those charged with providing transportation of tuberculosis patients to treatment centers. Enables law enforcement authorities to assist appropriate medical personnel at the request of the commissioner.

Section 18. Upon determining that a dangerous public health condition exists, the commissioner or local board of public health may issue an order requiring:

- The owner or occupier of premises to permit entry for investigation
- The owner to close premises
- The placarding of premises to give notice
- The cleaning or disinfection of premises
- The destruction of that matter or thing specified in the order

The order shall be delivered personally to person directed. Non-compliance may result in using police force or a court order, and a knowing violation may result in a civil fine of not more than \$10,000. Also gives authority to commissioner or local board of public health to vaccinate or treat individuals, decontaminate, and perform physical exams. An individuals' unwillingness to submit requires a court order to continue, and such individual may be quarantined in the interim. Any persons may be detained if they are determined to pose a serious public health threat.

Section 19. Authorizes DPH to adopt and enforce measures to provide for disposal of human remains. Such measures may include:

- Embalming, burial, cremation, interment, disinterment, transportation, disposal
- Taking possession of human remains
- Compelling businesses authorized to embalm, bury, cremate, etc....to provide use of facilities. Management and supervision of such facility may be transferred to public health authority, not to exceed termination of declaration of emergency.

Section 20. Gives DPH and local boards of health authority to order individuals or groups to be isolated or quarantined.

Section 21. Gives DPH or local board of health authority to take control of houses or buildings for purpose of isolation or quarantine.

Section 22. Technical Change

Section 23. Repeals sections 92,93,94,96A,99,100,101,103,105,108,110,110B,111,112,and 113 of Chapter 111.

Section 24. Technical change regarding infectious disease reports.

Section 25. Grants immunity from liability to any registered dentist who renders emergency care or treatment.

Section 26. Grants immunity from liability to any licensed psychologist who renders emergency care or treatment.

Section 27. Grants immunity from liability to any licensed social worker who renders emergency care or treatment.

Section 28. Technical Change

Section 29. Grants immunity from liability to public employees rendering assistance within a state of emergency.

Section 30. Technical change

Section 31. Gives the governor the authority to declare a supply emergency after conferring with the AG and the director of consumer affairs and business regulation, as a result of natural disaster, military act, civil disorder, terrorist act, bio-terrorist act, etc... The AG shall take appropriate action to ensure that no person shall sell a product or service that is a price that unreasonably exceeds the price charged before the emergency. The AG may promulgate regulations governing exceptions for additional costs incurred. This does not preempt Chapter 93A.

Section 32. Gives force and effect to sections not deemed unconstitutional.

Section 33. Gives DPH authority to promulgate rules and regulations necessary to implement this Act.

Section 34. This Act shall take effect upon passage.