WEST VIRGINIA CODE: §15-5-3

§15-5-3. Division of Emergency Management created.

(a) The Division of Homeland Security and Emergency Management is continued as the Division of Emergency Management, within the Department of Homeland Security. All of the allied, advisory, affiliated, or related entities, and funds associated with the Division of Homeland Security and Emergency Management and all its functions, personnel, and property are transferred to, incorporated in, and administered as a part of the Division of Emergency Management. Wherever the words "Office of Emergency Services" or "Division of Homeland Security and Emergency Management" appear in this code, they shall mean the Division of Emergency Management.

(b) A Director of the Division of Emergency Management shall be appointed by the Governor, by and with the advice and consent of the Senate. The Governor shall consider applicants for director who at a minimum: (1) Have at least five years managerial or strategic planning experience; (2) are knowledgeable in matters relating to public safety, homeland security, emergency management, and emergency response; and (3) have, at a minimum, a federally issued secret level security clearance or have submitted to or will submit to a security clearance investigation for the purpose of obtaining, at a minimum, a federally issued secret level security clearance.

(c) The director may employ such technical, clerical, stenographic, and other personnel, fix their compensation and make expenditures within the appropriation to the division or from other funds made available for the purpose of providing homeland security and emergency management services to carry out the purpose of this article. Beginning on the effective date of this section, all employees of the Division of Emergency Management are exempt from the Civil Service System: *Provided*, That employees of the Division of Homeland Security and Emergency Management who are currently members of the classified service, having been transferred to the Division of Emergency Management, retain their classified service as long as they remain in their current classification. Thereafter, if the employee leaves his or her current classification and maintains employment in the Division of Emergency Management, that employee, at that time, becomes transferred to the classified-exempt service as that term is defined in §29A-6-2 of this code.

(d) The director and other personnel of the Division of Emergency Management shall be provided with appropriate office space, furniture, equipment, supplies, stationery, and printing in the same manner as provided for personnel of other state agencies.

(e) The director, subject to the direction and control of the Governor through the Secretary of the Department of Homeland Security, shall be the executive head of the Division of Emergency Management and shall be responsible to the Governor and the Secretary of the Department of Homeland Security for carrying out the program for emergency management in this state. The director, in consultation with the Secretary of the Department of Homeland

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Security, shall coordinate the activities of all organizations for emergency management within the state and maintain liaison with and cooperate with homeland security, emergency management and other emergency service and civil defense agencies and organizations of other states and of the federal government, and shall have additional authority, duties, and responsibilities authorized by §15-5-1 *et seq.* of this code as may be prescribed by the Governor or the Secretary of the Department of Homeland Security.

(f) The director shall have the power to acquire in the name of the state by purchase, lease, or gift, real property and rights or easements necessary or convenient to construct thereon the necessary building or buildings for housing an emergency management control center.

(g) The director may, for the purposes of responding to a declared state of emergency or for the recovery from a declared state of emergency following the termination of the declaration, employ personnel or enter into contracts and subcontracts for goods or specialized technical services, subject to the following provisions:

(1) Employee positions shall be contingent on the receipt of the necessary federal and/or state funds.

(2) All employees employed pursuant to this subsection shall be exempt from both the classified services category and the classified exempt services category provided in §29-6-4 of this code.

(3) Each employee hired shall be deemed an at-will employee who may be discharged or released from his or her respective position without cause or reason.

(4) Employees may participate in the PEIA, PERS, workers' compensation, unemployment compensation programs, or their equivalents.

(5) The director shall set appropriate salary rates for employees equivalent to a rate commensurate with industry standards.

(6) Contracts may be entered into pursuant to this subsection with the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations and individuals for specialized technical services at a rate commensurate with industry standards as determined by the director to support specific activities related to the response to or the recovery from a declared state of emergency.

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