WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1959

ENROLLED

HOUSE BILL No. 316

(By Mr. Bachmann & Mr. Omerberg)

PASSED March 11, 1959

In Effect From Passage

Filed in Office of the Secretary of State of West Virginia MAR 19 1959
JOE F. BURDETT
SECRETARY OF STATE
AN ACT to amend and reenact sections three, six and eight, article five, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to appointment of the director; procurement of, and compensation for, services in an emergency; and appointment of local civil defense organizations.

Be it enacted by the Legislature of West Virginia:

That sections three, six and eight, article five, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 3. State Department of Civil and Defense Mobilization.—There is hereby created within the executive branch of the state government a department to be known as the department of civil and defense mobilization, hereinafter referred to as the civil defense agency.
6 A director of civil and defense mobilization, hereinafter called the director, shall be appointed by the governor to serve during the pleasure of the governor.

9 The director may employ such technical, clerical, stenographic and other personnel and fix their compensation, and may make such expenditures within the appropriation therefor, or from other funds made available to him for the purpose of civil defense and defense mobilization, as may be necessary to carry out the purpose of this article.

16 The director and other personnel of the civil defense agency 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.

21 The director, subject to the direction and control of the governor, shall be executive head of the civil defense agency and shall be responsible to the governor for carrying out the program for civil defense and defense mobilization of this state. He shall coordinate the activities of all organizations for civil defense within the state, and
shall maintain liaison with and cooperate with civil
defense and defense mobilization agencies and organiza-
tions of other states and of the federal government and
shall have such additional authority, duties, and respon-
sibilities authorized by this article as may be prescribed
by the governor.

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 con-
struct thereon the necessary building or buildings for
housing a civil defense control center.

Sec. 6. Emergency Powers.—The provisions of this
section shall be operative only during the existence of a
state of civil defense emergency (referred to hereinafter
in this section as "emergency"). The existence of such
emergency may be proclaimed by the governor or by con-
current resolution of the Legislature if the governor in
such proclamation, or the Legislature in such resolution,
finds that an attack upon the United States has occurred
or is anticipated in the immediate future, or that a natural
disaster of major proportions has actually occurred within
this state, and that the safety and welfare of the inhabi-
tants of this state require an invocation of the provisions
of this section. Any such emergency, whether proclaimed
by the governor or by the Legislature, shall terminate
upon the proclamation of the termination thereof by the
governor, or the passage by the Legislature of a con-
current resolution terminating such emergency.

During such period as such state of emergency exists
or continues, the governor shall have and may exercise
the following additional emergency powers:

(a) To enforce all laws, rules, and regulations, relating
to civil defense and to assume direct operational control
of any or all civil defense forces and helpers in the state;
(b) To sell, lend, lease, give, transfer, or deliver
materials or perform services for civil defense purposes
on such terms and conditions as the governor shall pre-
scribe and without regard to the limitations of any exist-
ing law, and to account to the state treasurer for any
funds received for such property;
(c) To procure materials and facilities for civil defense
by purchase, condemnation under the provisions of
chapter fifty-four of the code, or seizure pending institution of condemnation proceedings within thirty days from the seizing thereof, and to construct, lease, transport, store, maintain, renovate, or distribute such materials and facilities. Compensation for the property so procured shall be as is provided in chapter fifty-four of the code;

(d) To obtain the services of necessary personnel, required during the emergency, and to compensate them for their services from his contingent funds, or such other funds as may be available to him;

(e) To provide for and compel the evacuation of all or part of the population from any stricken or threatened area or areas within the state and to take such steps as are necessary for the receipt and care of such evacuees;

(f) Subject to the provisions of the state constitution, to remove from office any public officer having administrative responsibilities under this article for wilful failure to obey an order, rule or regulation adopted pursuant to this article. Such removal shall be upon charges after service upon such person of a copy of such charges and after giving him an opportunity to be heard in his defense.
Pending the preparation and disposition of charges, the governor may suspend such person for a period not exceeding thirty days. A vacancy resulting from removal or suspension pursuant to this section shall be filled by the governor until it is filled as otherwise provided by law;

(g) To perform and exercise such other functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population.

Sec. 8. *Local Organization for Civil Defense.*—Each political subdivision of this state is hereby authorized and directed to establish a local organization for civil defense in accordance with the state civil defense plan and program. Such political subdivision may confer or authorize the conferring upon members of the auxiliary police the powers of peace officers, subject to such restrictions as shall be imposed.

Each local organization for civil defense shall consist of a director and a local civil defense council, and any other members that may be required. The director shall be appointed by the executive officer or governing body of the political subdivision, to serve at the will and
pleasure of said executive officer or governing body, and
said political subdivisions are authorized to provide
adequate compensation. The local civil defense council
shall consist of five members, to be appointed by the
executive officer or governing body of the political sub-
division: Provided, That not more than three members of
said council shall be members of the same political party.
Two council members shall serve a term of years stagger-
ed to provide continuity of service in accordance with
local needs, without compensation, but shall be reimbursed
for the reasonable and necessary expenses incurred in
the performance of their duties.
The executive officer or governing body of the political
subdivision shall have general direction and control of the
local civil defense organization, and shall be responsible
for carrying out the provisions of this article. The director,
subject to the direction and control of said executive
officer or governing body, shall be executive head of the
local civil defense organization and shall be directly
responsible to the said executive officer or governing
body for the organization, administration and operation
of the local civil defense program. The local civil defense
council shall advise the director on all matters pertaining
to civil defense. Each local organization for civil defense
shall perform civil defense functions within the territorial
limits of the political subdivisions within which it is
organized, and, in addition, shall conduct such functions
outside of such territorial limits as may be required
pursuant to the provisions of section nine of this article.
In carrying out the provisions of this article each
political subdivision, in which any disaster as described
in section one hereof occurs, shall have the power to
enter into contracts and incur obligations necessary to
combat such disaster, protecting the health and safety of
persons and property, and providing emergency assistance
to the victims of such disaster. Each political subdivision
is authorized to exercise the powers vested under this
section in the light of the exigencies of the extreme
emergency situations without regard to time-consuming
procedures and formalities prescribed by law, (excepting
mandatory constitutional requirements), pertaining to the
performance of public work, entering into contracts, the
incurred of obligations, the employment of temporary
workers, the rental of equipment, the purchase of supplies
and materials, the levying of taxes, and the appropriation
and expenditure of public funds.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the House of Delegates

Takes effect \textit{from} passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker, House of Delegates

The within approved this the 18th day of March, 1959.

[Signature]
Governor