

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

316

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**House Bill No. 316**

(By MR. BACHMANN and MR. OMERBERG)

[Passed March 11, 1959; in effect from passage.]

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  
7 called the director, shall be appointed by the governor to  
8 serve during the pleasure of the governor.

9 The director may employ such technical, clerical,  
10 stenographic and other personnel and fix their compensa-  
11 tion, and may make such expenditures within the ap-  
12 propriation therefor, or from other funds made available  
13 to him for the purpose of civil defense and defense mobil-  
14 ization, as may be necessary to carry out the purpose of  
15 this article.

16 The director and other personnel of the civil defense  
17 agency shall be provided with appropriate office space,  
18 furniture, equipment, supplies, stationery and printing  
19 in the same manner as provided for personnel of other  
20 state agencies.

21 The director, subject to the direction and control of the  
22 governor, shall be executive head of the civil defense  
23 agency and shall be responsible to the governor for carry-  
24 ing out the program for civil defense and defense mobil-  
25 ization of this state. He shall coordinate the activities of  
26 all organizations for civil defense within the state, and

27 shall maintain liaison with and cooperate with civil  
28 defense and defense mobilization agencies and organiza-  
29 tions of other states and of the federal government and  
30 shall have such additional authority, duties, and respon-  
31 sibilities authorized by this article as may be prescribed  
32 by the governor.

33 The director shall have the power to acquire in the  
34 name of the state by purchase, lease or gift, real property  
35 and rights or easements necessary or convenient to con-  
36 struct thereon the necessary building or buildings for  
37 housing a civil defense control center.

Sec. 6. *Emergency Powers.*—The provisions of this  
2 section shall be operative only during the existence of a  
3 state of civil defense emergency (referred to hereinafter  
4 in this section as “emergency”.) The existence of such  
5 emergency may be proclaimed by the governor or by con-  
6 current resolution of the Legislature if the governor in  
7 such proclamation, or the Legislature in such resolution,  
8 finds that an attack upon the United States has occurred  
9 or is anticipated in the immediate future, or that a natural  
10 disaster of major proportions has actually occurred within

11 this state, and that the safety and welfare of the inhabi-  
12 tants of this state require an invocation of the provisions  
13 of this section. Any such emergency, whether proclaimed  
14 by the governor or by the Legislature, shall terminate  
15 upon the proclamation of the termination thereof by the  
16 governor, or the passage by the Legislature of a con-  
17 current resolution terminating such emergency.

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

21 (a) To enforce all laws, rules, and regulations, relating  
22 to civil defense and to assume direct operational control  
23 of any or all civil defense forces and helpers in the state;

24 (b) To sell, lend, lease, give, transfer, or deliver  
25 materials or perform services for civil defense purposes  
26 on such terms and conditions as the governor shall pre-  
27 scribe and without regard to the limitations of any exist-  
28 ing law, and to account to the state treasurer for any  
29 funds received for such property;

30 (c) To procure materials and facilities for civil defense  
31 by purchase, condemnation under the provisions of

32 chapter fifty-four of the code, or seizure pending institu-  
33 tion of condemnation proceedings within thirty days from  
34 the seizing thereof, and to construct, lease, transport,  
35 store, maintain, renovate, or distribute such materials  
36 and facilities. Compensation for the property so procured  
37 shall be as is provided in chapter fifty-four of the code;

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

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

46 (f) Subject to the provisions of the state constitution,  
47 to remove from office any public officer having administra-  
48 tive responsibilities under this article for wilful failure  
49 to obey an order, rule or regulation adopted pursuant to  
50 this article. Such removal shall be upon charges after  
51 service upon such person of a copy of such charges and  
52 after giving him an opportunity to be heard in his defense.

53 Pending the preparation and disposition of charges, the  
54 governor may suspend such person for a period not ex-  
55 ceeding thirty days. A vacancy resulting from removal or  
56 suspension pursuant to this section shall be filled by the  
57 governor until it is filled as otherwise provided by law;

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

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

9 Each local organization for civil defense shall consist  
10 of a director and a local civil defense council, and any  
11 other members that may be required. The director shall  
12 be appointed by the executive officer or governing body  
13 of the political subdivision, to serve at the will and

14 pleasure of said executive officer or governing body, and  
15 said political subdivisions are authorized to provide  
16 adequate compensation. The local civil defense council  
17 shall consist of five members, to be appointed by the  
18 executive officer or governing body of the political sub-  
19 division: *Provided*, That not more than three members of  
20 said council shall be members of the same political party.  
21 Two council members shall serve a term of years stagger-  
22 ed to provide continuity of service in accordance with  
23 local needs, without compensation, but shall be reimbursed  
24 for the reasonable and necessary expenses incurred in  
25 the performance of their duties.

26 The executive officer or governing body of the political  
27 subdivision shall have general direction and control of the  
28 local civil defense organization, and shall be responsible  
29 for carrying out the provisions of this article. The director,  
30 subject to the direction and control of said executive  
31 officer or governing body, shall be executive head of the  
32 local civil defense organization and shall be directly  
33 responsible to the said executive officer or governing  
34 body for the organization, administration and operation

35 of the local civil defense program. The local civil defense  
36 council shall advise the director on all matters pertaining  
37 to civil defense. Each local organization for civil defense  
38 shall perform civil defense functions within the territorial  
39 limits of the political subdivisions within which it is  
40 organized, and, in addition, shall conduct such functions  
41 outside of such territorial limits as may be required  
42 pursuant to the provisions of section nine of this article.

43 In carrying out the provisions of this article each  
44 political subdivision, in which any disaster as described  
45 in section one hereof occurs, shall have the power to  
46 enter into contracts and incur obligations necessary to  
47 combat such disaster, protecting the health and safety of  
48 persons and property, and providing emergency assistance  
49 to the victims of such disaster. Each political subdivision  
50 is authorized to exercise the powers vested under this  
51 section in the light of the exigencies of the extreme  
52 emergency situations without regard to time-consuming  
53 procedures and formalities prescribed by law, (excepting  
54 mandatory constitutional requirements), pertaining to the  
55 performance of public work, entering into contracts, the

56 incurring of obligations, the employment of temporary  
57 workers, the rental of equipment, the purchase of supplies  
58 and materials, the levying of taxes, and the appropriation  
59 and expenditure of public funds.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*W. J. Jasper*  
Chairman Senate Committee

*Eudora Andrews*  
Chairman House Committee

Originated in the House of Delegates

Takes effect *From* passage.

*Thomas M. Miley*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*Ralph J. Bean*  
President of the Senate

*H. R. Pawley*  
Speaker, House of Delegates

The within *approved* this the *18<sup>th</sup>*

day of *March*, 1959.

*Geoff. Underwood*  
Governor

