WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1973

ENROLLED

SENATE BILL NO. 3

(By Mr. BROTHETON, Mr. PRESIDENT,
AND MR. HUBBARD)

PASSED April 17, 1973

In Effect July 1, 1973

FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE
THIS DATE 5/3/73
ENROLLED

Senate Bill No. 3
(By Mr. Brotherton, Mr. President, and Mr. Hubbard)

[Passed April 12, 1973; in effect July 1, 1973.]

AN ACT to amend and reenact section six, article eight, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section five, article one, chapter seven of said code; to amend and reenact section five, article fourteen, chapter eleven of said code; to amend and reenact section three, article one-a, chapter fifteen of said code; to amend and reenact sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, article five of said chapter; and to further amend said article by adding thereto five new sections, designated sections nineteen, twenty, twenty-one, twenty-two and twenty-three; to amend and reenact section seven, article seven of said chapter; to amend and reenact section one, article two, chapter twenty-three of said code; and to amend and reenact section five, article two-b, chapter twenty-nine of said code, all relating to abolishing the department of civil and defense mobilization and the office of emergency planning and creating an office of emergency services in the office of the governor; records management and preservation advisory committee; duties of county commissioners; payment for services other than services in court; exemptions from the gasoline tax; duties of the adjutant general; policy and purpose of emergency services; certain definitions; the emergency services advisory council; giving certain general powers and emergency powers to the governor; mobile support
units; local organizations for emergency services; mutual aid agreements; regional organizations for emergency services; a certain immunity and exemption; liability to certain sheltered persons; appropriations; acceptance of certain services, gifts, grants and loans; certain political activity; emergency service personnel; certain utilization of existing services and facilities; certain enforcement; certain arrests by a peace officer without a warrant; unorganized militia; disaster prevention; certain communications; enactment of the Interstate Civil Defense and Disaster Compact; severability; certain recording and publication of a certain successors' names; certain employers and employees subject to workmen's compensation; application for a weather modification license; renewal; and temporary suspension.

_Be it enacted by the Legislature of West Virginia:_

That section six, article eight, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section five, article one, chapter seven of said code be amended and reenacted; that section five, article fourteen, chapter eleven of said code be amended and reenacted; that section three, article one-a, chapter fifteen of said code be amended and reenacted; that sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen and eighteen, article five of said chapter be amended and reenacted; that said article be further amended by adding there-to five new sections, designated sections nineteen, twenty, twenty-one, twenty-two and twenty-three; that section seven, article seven of said chapter be amended and reenacted; that section one, article two, chapter twenty-three of said code be amended and reenacted; and that section five, article two-b, chapter twenty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 5. GENERAL POWERS AND DUTIES OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; STATE BUILDING COMMISSION; SOCIAL SECURITY AGENCY; PUBLIC RECORDS MANAGEMENT AND PRESERVATION ACT; DEPARTMENT OF COMMERCE; WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT; HUMAN RIGHTS COMMIS-
ARTICLE 8. PUBLIC RECORDS MANAGEMENT AND PRESERVATION ACT.

§5-8-6. Records management and preservation advisory committee.

A records management and preservation advisory committee is hereby established to advise the administrator and to perform such other duties as this article requires. The records management and preservation advisory committee shall be composed of the following members: The governor, auditor, attorney general, president of the Senate, speaker of the House of Delegates, the chief justice of the supreme court of appeals, a judge of a circuit court to be appointed by the governor, the director of the office of emergency services, or their respective designated representatives. The advisory committee shall designate one of its members to be chairman, and it shall adopt rules for the conduct of its business. The advisory committee shall meet whenever called by its chairman or the administrator. The members of the advisory committee shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as members of the advisory committee.

CHAPTER 7. COUNTY COURTS AND OFFICERS.

ARTICLE 1. COUNTY COURTS GENERALLY.

§7-1-5. Duties of county commissioners; payment for services other than services in court.

It shall be the duty of the county commissioners of each county to visit each quarter and inspect institutions within their county for housing and caring for the poor, to inspect the jails, to arrange for the feeding and care of the prisoners therein, to investigate the conditions of the poor within their county, not housed within such institutions; to visit detention homes for children within their counties, if any; to visit and inspect bridges and bridge approaches under their control; to provide for and have general supervision over the repair and
maintenance of the county courthouse, jails, houses for the
poor and other county property, so as to prevent the undue
deterioration thereof; to supervise and control the maintenance
and operation of airport or airports owned or operated by the
county court; to supervise and control the purchase, erection
and maintenance of airport facilities; to supervise and control
the purchase of furniture, fixtures and equipment and janitors’
and other supplies for their county; to attend the annual
meeting of county assessors and such district meetings as
may be called by the state tax commissioner on matters
pertaining to the work of the county assessors and the
county courts as boards of review and equalization; to
review and equalize the assessments made by the assessors;
to inspect and review the lists of property, both real and
personal, made up by the assessor and his deputies for
taxable purposes, and to point out to the assessor any prop-
erty, real and personal, which the said assessors of their
respective counties may have overlooked or omitted to place
on said tax lists; to call to the attention of the assessor all real
estate or personal property belonging to churches, lodges,
schools or other charitable institutions which may have been
overlooked or omitted by the assessor or his deputies in
making up his lists of property for entry on the land and
personal property books; to supervise the general management
of the fiscal affairs and business of each county; and as a
further part of their duties they shall be empowered to
purchase, lease, rent, control, supervise, inspect, maintain and
erect public parks, playgrounds and recreational facilities, to
purchase, lease or rent equipment therefor and to employ
qualified recreational directors and personnel; to construct
new four-h camps on county property; to operate stone
quarries and sand deposits on county-owned or leased prop-
erty; to construct buildings for or aid in constructing or
equipping buildings for emergency services on sites approved
by the office of emergency services; to operate dog pounds
for county-municipalities; to purchase, lease, rent, control,
supervise, inspect, maintain and erect public markets and to
purchase, rent or lease equipment therefor and to employ
qualified personnel to operate such public markets; and as
a further part of their duties they shall be empowered to
purchase, lease, rent, control, supervise, inspect, maintain and
erect county mental health clinics and engage in any program
designed for the betterment of the mental and physical well-
being of the residents of their county and to cooperate with
any public or private agency for these purposes; to establish
and participate in regional planning and development coun-
cils; to establish and participate in county commissions on
intergovernmental relations as required by section three-q of
this article; to establish and participate in county commissions
on crime, delinquency and correction as required by section
three-r of this article.

Compensation shall be allowed and paid out of the county
treasury, in the same manner as salaries are paid, to each
county commissioner of each county (except as otherwise
provided by law for the county of Ohio) for services per-
formed for such county concerning the visiting of the poor,
inspection of jails, bridges and bridge approaches and for
visiting detention homes for children and for providing for
and supervising the repair and maintenance of the county
courthouse, jails, houses for the poor and other county
property; for supervising and controlling the maintenance and
operation of airport or airports owned or operated by the
county court and supervising and controlling the purchase,
erection and maintenance of airport facilities; for supervising
and controlling the purchase of furniture, fixtures and equip-
ment and janitors' and other supplies of their county; for
attending the annual meeting of assessors and such district
meetings as may be called by the state (tax commissioner on
matters pertaining to the work of assessors and county
courts as boards of review and equalization; for reviewing
and equalizing the assessments made by the assessors; for
inspecting and reviewing the lists of property, both real and
personal, made up by the assessor and his deputies for taxable
purposes and for pointing out to the assessor any property,
real and personal, which the said assessors of their respective
counties may have overlooked or omitted to place on said tax
lists; for calling to the attention of the assessor all real estate
or personal property belonging to churches, lodges, schools or
other charitable institutions which may have been overlooked
or omitted by the assessor or his deputies in making up his
lists of property for entry on the land and personal property
books; for purchasing, leasing, renting, controlling, supervising, inspecting, maintaining and erecting public parks, playgrounds and recreational facilities and the purchasing, leasing or renting the equipment therefor and employing qualified recreational directors and personnel therefor; for constructing new four-h camps on county property; operating stone quarries and sand deposits on county-owned or leased property, constructing buildings for or aiding in construction or equipping buildings for emergency services on sites approved by the office of emergency services; operating dog pounds for county-municipalities; to purchase, lease, rent, control, supervise, inspect, maintain and erect public markets, and to purchase, rent or lease equipment therefor and to employ qualified personnel to operate such public markets; for constructing fallout shelters and aiding individuals to construct fallout shelters through furnishing available information; for purchasing, leasing, renting, controlling, supervising, inspecting, maintaining or erecting county mental health clinics or engaging in programs for the betterment of the mental or physical well-being of the residents of their county; for conducting a survey of all abandoned and dilapidated buildings or structures within the county and to prepare an inventory thereof which inventory shall be made available to any agency of state or federal government or to local governmental agencies upon request; for establishing and participating in regional planning and development councils; for establishing and participating in county commissions on intergovernmental relations as required by section three-q of this article; for establishing and participating in county commissions on crime, delinquency and correction as required by section three-r of this article and for supervising the general management of the fiscal affairs and business of each county, within their counties, and other business by such commissioners, in addition to compensation for services in court, the sums of money provided in section five-a of this article.

CHAPTER 11. TAXATION.

ARTICLE 14. GASOLINE TAX.

§11-14-5. Exemptions from tax.
There shall be exempted from the excise tax on gasoline or special fuel imposed by this article the following:

1. All gallons of gasoline or special fuel exported from this state to any other state or nation.

2. All gallons of gasoline or special fuel sold to and purchased by the United States or any agency thereof when delivered in bulk quantities of five hundred gallons or more.

3. All gallons of gasoline or special fuel sold pursuant to a government contract, in bulk quantities of five hundred gallons or more, for use in conjunction with any municipal, county, state or federal civil defense or emergency service program, or to any person on whom is imposed a requirement to maintain an inventory of gasoline or special fuel for the purpose of any such program: Provided, That fueling facilities used for these purposes are not capable of fueling motor vehicles and the person in charge of such program has in his possession a letter of authority from the tax commissioner certifying his right to such exemption.

4. All gallons of gasoline or special fuel imported into this state in the fuel supply tank or tanks of a motor vehicle, other than in the fuel supply tank of a vehicle being hauled. This exemption does not relieve a person owning or operating as a motor carrier of any taxes imposed by article fourteen-a of this chapter.

5. All gallons of gasoline and special fuel used and consumed in stationary off-highway turbine engines.

6. All gallons of special fuel for heating any public or private dwelling, building or other premises.

7. All gallons of special fuel for boilers.

8. All gallons of gasoline or special fuel used as a dry cleaning solvent or commercial or industrial solvent.

9. All gallons of gasoline or special fuel used as lubricants, ingredients or components of any manufactured product or compound.

10. All gallons of gasoline or special fuel sold to any municipality or agency thereof for use in vehicles or equipment owned and operated by such municipality or agency thereof and when purchased for delivery in bulk quantities of five hundred gallons or more.
(11) All gallons of gasoline or special fuel sold to any urban mass transportation authority, created pursuant to the provisions of article twenty-seven, chapter eight of this code, for use in an urban mass transportation system.
(12) All gallons of gasoline or special fuel sold for use as aircraft fuel.
(13) All gallons of gasoline or special fuel sold for use or used as a fuel for commercial watercraft.
(14) All gallons of special fuel sold for use or consumed in railroad diesel locomotives.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 1A. ADJUTANT GENERAL.

§15-1A-3. Duties.

(a) The adjutant general shall be chief of staff to the governor and commanding general of the organized militia. He shall direct the planning and employment of the military forces of the state in carrying out their state mission, establish unified command of state forces whenever jointly engaged, coordinate the military affairs with the civil defense of the state and organize and coordinate the activities of all civil agencies including local and state police in event of declaration of a limited emergency by the governor pursuant to article one-d of this chapter. In time of emergency or disaster, the adjutant general shall coordinate his activities with those of the office of emergency services provided for by article five of this chapter. He shall be custodian of all military records of the state and shall keep the same indexed and available for ready reference. He shall keep an itemized account of all moneys received and dispensed from all sources and shall make an annual report to the governor on the condition of the organized militia, receipts and expenditures and such other matters relating to the military forces of the state and the adjutant general's department as he shall deem expedient.

(b) The adjutant general shall be responsible for the organization, administration, training and supply of the organized militia and shall cause to be procured, prepared and issued to the organizations of the organized militia all
necessary books and blanks for reports, records, returns and
general administration, and shall, at the expense of the
state, cause the military laws, military code and rules and
regulations in force to be printed, bound in proper form and
distributed, one copy to each commissioned officer, and one
each to all the circuit, intermediate and criminal court judges,
sheriffs and justices of the peace in the state requiring them
and shall procure and supply all necessary textbooks of drill
and instruction. He shall keep in his office an accurate
account of all state and United States property issued to the
state. He shall keep on file in his office all official bonds
required by this chapter, the reports and returns of troops and
military forces of the state and all other writings and papers
which are required to be transmitted to and preserved at the
general headquarters of the organized militia.

(c) The adjutant general shall keep records of all service
personnel from the state of West Virginia, commissioned or
enlisted, in any of the wars of the United States and of
individual claims of citizens of West Virginia for service
rendered in such wars. He shall assist all persons residing in
this state having claims against the United States for pension,
bounty or back pay or such claims as have arisen out of, or
by reason of, service in any of said wars. To this end he shall
cooperate with the agents or attorneys of such claimants,
furnish to claimants only all necessary certificates or certified
abstracts from, or copies of, records or documents in his
office and shall seek in all practicable ways to secure speedy
and just action in all claims now pending or which may
hereafter be filed: Provided, That any and all of the above
services shall be rendered without charge to the claimant. He
shall establish and maintain as a part of his office a bureau of
records of the services of the West Virginia troops during such
wars and shall keep arranged in proper and convenient form
all records and papers pertaining thereto.

ARTICLE 5. EMERGENCY SERVICES.

§15-5-1. Policy and purpose.

1 In view of the existing and increasing possibility of the
occurrence of disasters of unprecedented size and destruc-
tiveness resulting from enemy attack, sabotage or other
hostile action, or from fire, flood, earthquakes or other natural or man-made causes and in order to insure that preparations of this state will be adequate to deal with such disasters, and generally to provide for the common defense and to protect the public peace, health and safety and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary: (1) To create a state emergency services agency and to authorize the creation of local and regional organizations for emergency services in the political subdivisions of the state; (2) to confer upon the governor and upon the executive heads of governing bodies of the political subdivisions of the state the emergency powers provided herein and (3) to provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of emergency service functions. It is further declared to be the purpose of this article and the policy of the state that all emergency service functions of this state be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities and of private agencies of every type, so that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with any disaster that may occur.


As used in this article:
(a) "Emergency services" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake, or other natural or man-made causes. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, air-raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas,
emergency welfare services, emergency transportation, existing
or properly assigned functions of plant protection, temporary
restoration of public utility services and other functions
related to civilian protection, together with all other activities
necessary or incidental to the preparation for and carrying out
of the foregoing functions. Disaster includes the imminent
threat of disaster as well as its occurrence and any power or
authority exercisable on account of a disaster may be exer-
cised during the period when there is an imminent threat
thereof.

(b) “Local organization for emergency services” means an
organization created in accordance with the provisions of this
article by state or local authority to perform local emergency
service functions.

(c) “Mobile support unit” means an organization for
emergency services created in accordance with the provisions
of this article by state or local authority to be dispatched by
the governor to supplement local organizations for emergency
services in a stricken area.

(d) “Political subdivision” means any county or municipal
corporation in this state.

§15-5-3. Office of emergency services.

There is hereby created within the office of the governor an
office to be known as the office of emergency services. A
director of the office of emergency services, hereinafter called
the director, shall be appointed by the governor in accordance
with the provisions of section two-a, article seven, chapter six
of this code. On and after the effective date of this act,
the director of civil and defense mobilization referred to in
said section two-a shall be known and designated as the direc-
tor of emergency services.

The director may employ such technical, clerical, steno-
graphic 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 providing emergency services as may be necessary
to carry out the purpose of this article. Employees of the
office of emergency services shall be members of the state civil
service system and all appointments of the office, except that
of director, shall be a part of the classified service under the
The director and other personnel of the office of emergency services 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. The director, subject to the direction and control of the governor, shall be executive head of the office of emergency services and shall be responsible to the governor for carrying out the program for emergency services in this state. He shall coordinate the activities of all organizations for emergency services within the state and maintain liaison with and cooperate with emergency service and civil defense agencies and organizations of other states and of the federal government and shall have such additional authority, duties and responsibilities 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 construct thereon the necessary building or buildings for housing an emergency services control center.

The office of emergency planning in the department of finance and administration is hereby abolished and its functions, personnel and property transferred to the office of emergency services. The department of civil and defense mobilization is hereby abolished and its functions, personnel and property transferred to the office of emergency services.

§15-5-4. Emergency services advisory council.

There is hereby created an emergency services advisory council, hereinafter called the council, which shall consist of seven members to be appointed by the governor. The council shall advise the governor and the director on all matters pertaining to emergency services. The governor shall serve as chairman of the council and the members thereof shall serve without compensation but shall be reimbursed for the reasonable and necessary expenses actually incurred in the performance of their duties.

§15-5-5. General powers of the governor.

The governor shall have general direction and control of the
office of emergency services and shall be responsible for the
carrying out of the provisions of this article and, in the event
of disaster beyond local control, may assume direct opera­
tional control over all or any part of the emergency service
functions within this state.

In performing his duties under this article, the governor is
authorized to cooperate with the federal government, other
states and private agencies in all matters pertaining to the
 provision of emergency services for this state and the nation.

In performing his duties under this article to effect its policy
and purpose, the governor is further authorized and empow­
ered:

(1) To make, amend and rescind the necessary orders, rules
and regulations to carry out the provisions of this article
within the limits of the authority conferred upon him herein,
with due consideration of the plans of the federal government.

(2) To prepare a comprehensive plan and program for the
provision of emergency services in this state, such plan and
program to be integrated into and coordinated with com­
parable plans of the federal government and of other states
to the fullest possible extent, and to coordinate the pre­
paration of such plans and programs by the political sub­
divisions of this state, such plans to be integrated into and
coordinated with the state plan and program to the fullest
possible extent.

(3) In accordance with such state plan and program, to
procure supplies and equipment, to institute training and
public information programs, to take all other preparatory
steps including the partial or full mobilization of emergency
service organizations in advance of actual disaster and to
insure the furnishing of adequately trained and equipped emer­
gency service personnel in time of need.

(4) To make such studies and surveys of industries, re­
sources and facilities in this state as may be necessary to
ascertain the capabilities of the state for providing emergency
services and to plan for the most efficient emergency use
thereof.

(5) On behalf of the state, to enter into mutual aid
arrangements with other states and to coordinate mutual aid
plans between political subdivisions of this state.

(6) To delegate any administrative authority vested in him under this article and to provide for the subdelegation of any such authority.

(7) To appoint, in cooperation with local authorities, metropolitan area directors when practicable.

(8) To cooperate with the president and the heads of the armed forces, the civil defense agency of the United States and other appropriate federal officers and agencies and with the officers and agencies of other states in matters pertaining to the civil defense of the state and nation, including the direction and control of (a) blackouts and practice blackouts, air-raid drills, mobilization of emergency service and civil defense forces and other tests and exercises, (b) warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith; (c) the effective screening or extinguishing of all lights and lighting devices and appliances; (d) shutting off water mains, gas mains, electric power connections and the suspension of all other utility services; (e) the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to drills or attack; (f) public meetings or gatherings and (g) the evacuation and reception of the civilian population.


The provisions of this section shall be operative only during the existence of a state of emergency. The existence of a state of emergency may be proclaimed by the governor or by concurrent 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 or man-made disaster of major proportions has actually occurred or is imminent within the state, and that the safety and welfare of the inhabitants 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.
So long as such state of emergency exists, the governor
shall have and may exercise the following additional emergency
powers:
(a) To enforce all laws, rules and regulations relating to the
provision of emergency services and to assume direct opera-
tional control of any or all emergency service forces and
helpers in the state;
(b) To sell, lend, lease, give, transfer or deliver materials or
perform functions relating to emergency services on such
terms and conditions as he shall prescribe and without regard
to the limitations of any existing law and to account to the
state treasurer for any funds received for such property;
(c) To procure materials and facilities for emergency
services by purchase, condemnation under the provisions of
chapter fifty-four of this 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. Com-
pensation for property so procured shall be made in the
manner provided for in chapter fifty-four of this 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 within
the state and to take such steps as are necessary for the
receipt and care of such evacuees;
(f) To control ingress and egress to and from a disaster
area, the movement of persons within the area and the occu-
pancy of premises therein;
(g) To suspend the provisions of any regulatory statute
prescribing the procedures for conduct of state business or the
orders, rules or regulations of any state agency, if strict
compliance therewith would in any way prevent, hinder or
delay necessary action in coping with the emergency;
(h) To utilize such available resources of the state and of its
political subdivisions as are reasonably necessary to cope with
the emergency;
(i) To suspend or limit the sale, dispensing or trans-
portation of alcoholic beverages, firearms, explosives and
combustibles;
(j) To make provision for the availability and use of tem-
porary emergency housing;
(k) 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.
§15-5-7. Mobile support units.
1 The governor or his duly authorized representative may
2 create and establish such number of mobile support units as
3 are necessary to reinforce emergency service organizations in
4 stricken areas and with due consideration of the plans of the
5 federal government and of other states. He shall appoint a
6 commander for each such unit who shall have primary
7 responsibility for the organization, administration and opera-
8 tion of such unit. A mobile support unit shall be called to
duty upon order of the governor and may function in any
9 part of the state or, upon the conditions specified in this
10 section, in other states.
11 Personnel of mobile support units while on duty, whether
12 within or without the state, shall: (1) If they are employees of
13 the state, have the powers, duties, rights, privileges and
14 immunities and receive the compensation incidental to their
15 employment; (2) if they are employees of a political sub-
16 division of the state and whether serving within or without
17 such political subdivision, have the powers, duties, rights,
18 privileges and immunities and receive the compensation
19 incidental to their employment and (3) if they are not
20 employees of the state or a political subdivision thereof, be
21 entitled to compensation by the state at the same rate as is
22 paid members of circuit court juries and to the same rights
23 and immunities as are provided by law for the employees of
24 this state. All personnel of mobile support units shall, while
25 on duty, be subject to the operational control of the authority
26 in charge of emergency service activities in the area in which
27 they are serving and shall be reimbursed for all necessary
28 travel and subsistence expenses actually incurred.
29 The state shall reimburse a political subdivision for the
30 compensation paid and necessary travel, subsistence and main-
tenance expenses actually incurred of employees of such political subdivision while serving as members of a mobile support unit and for all payments for death, disability or injury of such employees incurred in the course of duty and for all losses of or damage to supplies and equipment of such mobile subdivision resulting from the operation of such mobile support unit.

§15-5-8. Local organization for emergency services.

Each political subdivision of this state is hereby authorized and directed to establish a local organization for emergency services in accordance with the state plan and program for the provision of emergency services. 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 it may impose.

Each local organization for emergency services shall consist of a director and a local emergency services council and such other members as 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 the executive officer or governing body and such political subdivisions are authorized to provide adequate compensation for him. The local council shall consist of five members, appointed by the executive officer or governing body of the political subdivision: Provided, That not more than three members thereof shall be members of the same political party. Council members shall serve a term of years staggered to provide continuity of service in accordance with local needs, without compensation, but shall be reimbursed for the reasonable and necessary expenses actually 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 emergency services organization and shall be responsible for carrying out the provisions of this article. The director, subject to the direction and control of such executive officer or governing body, shall be executive head of the local emergency services organization and shall be directly responsible to the executive officer or governing body for the
organization, administration and operation of the local emergency services program. The local council shall advise the
director on all matters pertaining to emergency services. Each
local organization shall perform emergency service functions
within the territorial limits of the political subdivisions within
which it is organized and, in addition, conduct such functions
outside of such territorial limits as may be required pursuant
to the provisions of sections nine and ten of this article.

In carrying out the provisions of this article each political
subdivision in which any disaster as described in section one
of this article occurs shall have the power to enter into
contracts and incur obligations necessary to combat such
disaster, protect the health and safety of persons and property
and provide emergency assistance to the victims of such
disaster. Each political subdivision is authorized to exercise its
powers under this section in light of the exigencies of extreme
emergency situations without regard to time-consuming pro-
cedures and formalities prescribed by law (excepting man-
datory constitutional requirements) pertaining to the perfor-
mance of public work, entry into contracts, incurring of ob-
ligations, employment of temporary workers, rental of equip-
ment, purchase of supplies and materials, levying of taxes
and appropriation and expenditure of public funds.


The director of each local organization for emergency
services may, in collaborating with other public and private
agencies within this state, develop or cause to be developed
mutual aid agreements for reciprocal aid and assistance in
case of disaster too great to be dealt with unassisted. Such
agreements shall be made in conformity with the state plan
and program for emergency services and, in time of emer-
gency, it shall be the duty of each local organization to
render assistance in accordance therewith.

The director of each local organization may, subject to the
approval of the governor, enter into mutual aid agreements
with emergency service and civil defense agencies or or-
ganizations in other states for reciprocal aid and assistance
in case of disaster too great to be dealt with unassisted.
§15-5-10. Regional organizations for emergency services.

Regional organizations for emergency services may be established in the discretion of the governor for any combination of political subdivisions. Each such organization shall be directed by the council which shall consist of the local directors, hereinbefore provided for in section eight of this article, of emergency services of the political subdivisions included in the region for which the organization is established. The local directors of emergency services shall designate the chairman, who may be one of the local directors, a private citizen or a local official, and may appoint committees representing different groups of interested citizens to assist them in the discharge of their duties. Members of such committees shall not be entitled to compensation for their services. The regional organizations and their members shall, in accordance with the state plan and program for emergency services, engage in such activities and perform such functions and duties as will further the provision of emergency services for the region and state. The emergency service organizations shall coordinate their activities with those of the regional planning and development councils in this state, and each local political subdivision included in the region shall pay its proportionate share of the ordinary expenses of such activities.

Any such organization may, within the limits of the funds made available for the purpose by the local political subdivisions included in the region or by the state, employ necessary personnel and fix their compensation, if any. Any such regional organization may be dissolved, reorganized or rearranged by the governor whenever in his discretion such action is necessary.

§15-5-11. Immunity and exemption; "duly qualified emergency service worker" defined.

(a) All functions hereunder and all other activities relating to emergency services are hereby declared to be governmental functions. Neither the state nor any political subdivision nor any agency of the state or political subdivision nor, except in cases of willful misconduct, any duly qualified emergency service worker complying with or reason-
ably attempting to comply with this article or any order, rule, regulation or ordinance promulgated pursuant to this article, shall be liable for the death of or injury to any person or for damage to any property as a result of such activity. This section shall not affect the right of any person to receive benefits or compensation to which he would otherwise be entitled under this article, chapter twenty-three of this code, any act of Congress or any other law.

(b) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to an authorized emergency service worker who shall, in the course of performing his duties, practice such skill during an emergency.

(c) As used in this section, “duly qualified emergency service worker” means:

(1) Any duly qualified full or part-time paid, volunteer or auxiliary employee of this state, or any other state, territory, possession or the District of Columbia, of the federal government, of any neighboring country or political subdivision thereof or of any agency or organization performing emergency services in this state subject to the order or control of or pursuant to the request of the state or any political subdivision thereof.

(2) Duly qualified instructors and properly supervised students in recognized educational programs where emergency services are taught. A recognized educational program shall include any program in an educational institution existing under the laws of this state and such other educational programs as shall be established by the office of emergency services or otherwise under this article.

(d) A duly qualified emergency service worker performing his duty in this state pursuant to any lawful agreement, compact or arrangement for mutual aid and assistance to which the state or a political subdivision is a party shall possess the same powers, duties, immunities and privileges he would possess if performing the same duties in his own state, province or political subdivision thereof.

§15-5-12. Liability to sheltered persons.

Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a
license or privilege or otherwise permits the designation or use of the whole or any part of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock or practice emergency shall, together with his successors in interest, if any, not be civilly liable for negligently causing the death of or injury to any sheltered person on or about such real estate or premises or for loss of or damage to the property of any such sheltered person.

§15-5-13. Appropriations; acceptance of services, gifts, grants and loans.

1 Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for emergency services or of its proportionate share of expenses of a regional organization for emergency services, or both.

2 Whenever the federal government or any agency or officer thereof shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes relating to emergency services, the state, acting through the governor, or such political subdivision, acting with the consent of the governor and through its executive officer or governing body, may accept such offer and upon such acceptance the governor of the state or executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials or funds on behalf of the state or such political subdivision and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

3 Whenever any person, firm or corporation shall offer to the state or to any political subdivision thereof, services, equipment, supplies, materials or funds by way of gift, grant or loan, for purposes relating to emergency services, the state, acting through the governor, or such political subdivision, acting through its executive officer or governing body,
may accept such offer and upon such acceptance the governor
of the state or executive officer or governing body of such
political subdivision may authorize any officer of the state
or of the political subdivision, as the case may be, to re-
ceive such services, equipment, supplies, materials or funds
or behalf of the state or such political subdivision and sub-
ject to the terms of the offer.

1 No organization for emergency services established under
the authority of this article shall participate in any form
of political activity, nor shall it be employed directly or
indirectly for political purposes.

1 No person shall be employed or associated in any capacity
in any emergency service organization established under this
article who advocates or has advocated a change by force or
violence in the constitutional form of the government of the
United States or this state or the overthrow of any govern-
ment in the United States by force or violence or who has
been convicted of or is under indictment or information charg-
ing any subversive act against the United States. Each per-
son who is appointed to serve in an organization for emer-
gency services shall, before entering upon his duties, take an
oath, in writing, before a person authorized to administer
oaths in this state, which shall be substantially as follows:

"I, ______________________, do solemnly swear or affirm that I
will support and defend the Constitution of the United States
and the Constitution of West Virginia, against all enemies,
foreign and domestic; that I will bear true faith and alle-
giance to the same; that I take this obligation freely, without
any mental reservation or purpose of evasion and that I will
well and faithfully discharge the duties upon which I am about
to enter.

"And I do further swear or affirm that I do not advocate,
nor am I a member of any political party or organization
that advocates, the overthrow of the government of the
United States or this state by force or violence and that
during such time as I am a member of the (name of organiza-
I will not advocate or become a member of any political party or organization that advocates the overthrow of the government of the United States or this state by force or violence."

§15-5-16. Utilization of existing services and facilities.

In carrying out the provisions of this article, the governor, the chairmen of the regional councils and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the state and of the political subdivisions to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed to cooperate with and extend such services and facilities to the governor and to emergency service organizations of the state upon request.

§15-5-17. Enforcement.

It shall be the duty of every organization for emergency services established pursuant to this article and of the officers thereof to execute and enforce such orders, rules and regulations as may be made by the governor under this article. Each such organization shall have at its office available for public inspection all such orders, rules and regulations of the governor.


A peace officer, when in uniform or displaying a badge or other insignia of authority, may arrest without a warrant any person violating or attempting to violate in such officer's presence any order, rule or regulation made pursuant to this article. This authority shall be limited to arrest for violations of those orders, rules and regulations which affect the public generally.


The unorganized militia shall, at the call of the governor, be available for duty with the emergency service forces of this state. For purposes of this article, the unorganized
§15-5-20. Disaster prevention.

(a) In addition to disaster prevention measures as included in the state, local, regional and interjurisdictional disaster plans, the governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. At his direction, and pursuant to any other authority and competence they have, state agencies, including but not limited to those charged with responsibilities in connection with flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land-use planning and construction standards, shall make studies of disaster prevention-related matters. The governor, from time to time, shall make such recommendation to the Legislature, political subdivisions and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

(b) At the request of and in conjunction with the office of emergency services, any state department may keep land use and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flooding or other catastrophic occurrences. Such studies shall concentrate on means of reducing or avoiding the dangers caused by such occurrences and the consequences thereof.


The office of emergency services shall ascertain what means exist for rapid and efficient communication in times of disaster. The office shall consider the desirability of supplementing such communication resources or of integrating them into a comprehensive state or federal-state telecommunications or other communications system or network. In studying the character and feasibility of any system or its several parts, the office shall evaluate the possibility of multi-purpose use thereof for various state, regional and local governmental

(a) The "Interstate Civil Defense and Disaster Compact" is hereby approved, ratified, adopted, enacted into law and entered into by the state of West Virginia with all other jurisdictions legally joining therein in accordance with its terms, in a form substantially as follows:

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

Article I.

The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire and atomic, radiological, chemical, bacteriological means and other weapons. The prompt, full and effective utilization of the resources of the respective states, including such resources as may be available from the United States government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the states that are parties hereto. The directors of civil defense of all party states shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

Article II.

It shall be the duty of each party state to formulate civil defense plans and programs for application within such state. There shall be frequent consultation between the representatives of the states and with the United States government and the free exchange of information and plans, including inventories of any materials and equipment avail-
able for civil defense. In carrying out such civil defense
plans and programs the party states shall so far as possible
provide and follow uniform standards, practices and rules
and regulations including:

(a) Insignia, armbands and any other distinctive articles
to designate and distinguish the different civil defense serv-
ices;

(b) Blackouts and practice blackouts, air raid drills, mobili-
zeation of civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the
mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights
and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power
connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for
civil defense purposes in order to assure that such materials
and equipment will be easily and freely interchangeable
when used in or by any other party state;

(g) The conduct of civilians and the movement and cessa-
tion of movement of pedestrians and vehicular traffic, prior,
during and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings and

(i) Mobile support units.

Article III.

Any party state requested to render mutual aid shall
take such action as is necessary to provide and make avail-
able the resources covered by this compact in accordance
with the terms hereof: Provided, That it is understood
that the state rendering aid may withhold resources
to the extent necessary to provide reasonable protection
for such state. Each party state shall extend to the civil
defense forces of any other party state, while operating
within its state limits under the terms and conditions of
this compact, the same powers (except that of arrest unless
specifically authorized by the receiving state), duties, rights,
privileges and immunities as are extended to the civil defense
forces of such state. Civil defense forces will continue
under the command and control of their regular leaders
but the organizational units will come under the operational
control of the civil defense authorities of the state receiving assistance.

Article IV.

Whenever any person holds a license, certificate or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party state to meet an emergency or disaster and such state shall give due recognition to such license, certificate or other permit as if issued in the state in which aid is rendered.

Article V.

No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith.

Article VI.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that appropriate among other states party hereto, this instrument contains elements of a broad base common to all states and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or states. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

Article VII.

Each party state shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that state and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms
Article VIII.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment answering a request for aid and for the cost incurred in connection with such requests: Provided, That any aiding party state may assume in whole or in part such loss, damage, expense or other cost or may loan such equipment or donate such services to the receiving party state without charge or cost: And provided further, That any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. The United States government may relieve the party state receiving aid from any liability and reimburse the party state supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the state and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

Article IX.

Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party states and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies and all other relevant factors. Such plans shall provide that the party states receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and
medical care and like items. Such expenditures shall be reimbursed by the party state of which the evacuees are residents or by the United States government under plans approved by it. After the termination of the emergency or disaster the party state of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

Article X.

This compact shall be available to any state, territory or possession of the United States and the District of Columbia. The term “state” may also include any neighboring foreign country or province or state thereof.

Article XI.

The committee established pursuant to article one of this compact may request the civil defense agency of the United States government to act as an informational and coordinating body under this compact and representatives of such agency of the United States government may attend meetings of such committee.

Article XII.

This compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying and shall be subject to approval by Congress unless prior congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the civil defense agency and other appropriate agencies of the United States government.

Article XIII.

This compact shall continue in force and remain binding on each party state until the Legislature or the governor of such party state takes action to withdraw therefrom. Such action shall not be effective until thirty days after notice thereof has been sent by the governor of the party state desiring to withdraw to the governors of all other party states.
Article XIV.

This compact shall be construed to effectuate the purposes stated in article one hereof. If any provision of this compact is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be effected thereby.


1. If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

ARTICLE 7. EMERGENCY INTERIM LEGISLATIVE SUCCESSION ACT.

§15-7-7. Recording and publication of successor's name.

1. Each designation of an emergency interim successor shall become effective when the legislator or floor leader authorized by section six of this article to make such designation files with the secretary of state the successor's name, address and rank in order of succession. The removal of an emergency interim successor or change in order of succession shall become effective when the legislator or floor leader authorized by section six of this article to do so, files this information with the secretary of state. All such data shall be open to public inspection. The secretary of state shall inform the governor, the director of the office of emergency services, the clerk of the house concerned and all emergency interim successors of all such designations, removals and changes in order of succession. The clerk of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in membership or order of succession as soon as possible after their occurrence.

CHAPTER 23. WORKMEN'S COMPENSATION.

ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER; PREMIUMS.
§23-2-1. Employers and employees subject to chapter.

The state of West Virginia and all governmental agencies or departments created by it, including county boards of education, are hereby required to subscribe to and pay premiums into the workmen's compensation fund for the protection of their employees and shall be subject to all requirements of this chapter and all rules and regulations prescribed by the commissioner with reference to rates, classification and premium payments.

All persons, firms, associations and corporations regularly employing other persons for the purpose of carrying on any form of industry, service or business in this state, including county courts, municipalities, other political subdivisions of the state, and emergency service organizations organized under article five, chapter fifteen of this code, are employers within the meaning of this chapter and subject to its provisions: Provided, That the provisions of section eight, article two of this chapter shall not apply to such county courts, municipalities, other political subdivisions of the state or emergency service organizations: Provided, however, That the failure of such county courts, municipalities, other political subdivisions of the state or emergency service organizations to elect to subscribe to and to pay premiums into the workmen's compensation fund shall not impose any liability upon them, other than such liability as would exist notwithstanding the provisions of this chapter. All persons in the service of employers as herein defined, and employed by them for the purpose of carrying on the industry, business, service or work in which they are engaged, including persons regularly employed in the state whose duties necessitate employment of a temporary or transitory nature by the same employer without the state, check-weighmen employed according to law, all members of rescue teams assisting in mine accidents with the consent of the owner who, in such case, shall be deemed the employer, or at the direction of the director of the department of mines, and all forest fire fighters who, under the supervision of the director of the department of natural resources or his
designated representative, assist in the prevention, confinement and suppression of any forest fire are employees within the meaning of this chapter and subject to its provisions: Provided further, That this chapter shall not apply to employers of employees in domestic service or persons whose employment is prohibited by law, nor to employees of an employer while employed without the state, except in case of temporary employment without the state as hereinbefore provided; nor shall a member of a firm of employers or any official of an association or of a corporate employer, including a manager or any elective or appointive official of the state, county, county court, board of education, municipality, other political subdivision of the state or emergency service organization organized as aforesaid, whose term of office is definitely fixed by law, be deemed an employee within the meaning of this chapter: And provided further, That employers of not more than three employees for a period of not more than one month, who shall be called herein “casual employers,” employers of employees in agricultural service and duly incorporated volunteer fire departments or companies may voluntarily elect to subscribe to and pay premiums into the workmen’s compensation fund for the protection of the employees of such employers and all of the members, including the chief, commander or other officials thereof, of such duly incorporated volunteer fire departments or companies, and in such case shall be subject to all requirements of this chapter and all rules and regulations prescribed by the commissioner with reference to rates, classifications and premium payments; but such casual employers, employers of employees in agricultural service and duly incorporated volunteer fire departments or companies’ shall not be required to subscribe to the workmen’s compensation fund and their failure to subscribe to such fund shall not impose any liability upon them other than such liability as would exist notwithstanding the provisions of this chapter; nor shall the provisions of section eight of this article apply to casual employers, employers of employees in agricultural service or to such duly incorporated volunteer fire departments or companies.
The premium and actual expenses in connection with governmental agencies and departments of the state of West Virginia shall be paid out of the state treasury from appropriations made for such agencies and departments, in the same manner as other disbursements are made by such agencies and departments.

County courts, municipalities, other political subdivisions of the state, county boards of education, emergency service organizations organized as aforesaid and duly incorporated volunteer fire departments or companies which shall elect to become subscribers to the workmen's compensation fund shall provide for the funds to pay their prescribed premiums into the fund and such premiums and premiums of state agencies and departments, including county boards of education, shall be paid into the fund in the same manner as herein provided for other employers subject to this chapter.

In addition to its usual and ordinary meaning, the term “employer” or “employers,” as used in this chapter, shall be taken to extend to and include any duly incorporated volunteer fire department or company or emergency service organization organized as aforesaid which shall elect to subscribe to and pay premiums into the workmen's compensation fund and, in addition to its usual and ordinary meaning, the term “employee” or “employees,” as used in this chapter, shall be taken to extend to and include all of the members of any such department, company or organization. All duly incorporated volunteer fire departments or companies and emergency service organizations organized as aforesaid which shall elect to subscribe to and pay premiums into such fund shall be placed in a separate group or class of subscribers to be established by the commissioner and such departments, companies or organizations shall pay into the fund such premiums (computed, notwithstanding the provisions of section five of this article, on such basis as to the commissioner shall seem right and proper) as may be necessary to keep such group or class entirely self-supporting.

Any employer whose employment in this state is to be for a definite or limited period which could not be considered “regularly employing” within the meaning of this
section may elect to pay into the workmen’s compensation fund the premiums herein provided for and, at the time of making application to the commissioner, such employer shall furnish a statement under oath showing the probable length of time the employment will continue in this state, the character of the work, an estimate of the monthly payroll and any other information which may be required by the commissioner. At the time of making application such employer shall deposit with the state compensation commissioner to the credit of the workmen’s compensation fund the amount required by section five of this article, which amount shall be returned to such employer if his application be rejected by the commissioner. Upon notice to such employer of the acceptance of his application by the commissioner, he shall be an employer within the meaning of this chapter and subject to all of its provisions.

Any foreign corporation employer electing to comply with the provisions of this chapter and to receive the benefits hereunder shall, at the time of making application to the commissioner, in addition to other requirements of this chapter, furnish such commissioner with a certificate from the secretary of state showing that it has complied with all the requirements necessary to enable it legally to do business in this state and no application of such foreign corporation employer shall be accepted by the commissioner until such certificate is filed.

For the purpose of this chapter, a mine shall be adjudged within this state when the main opening, drift, shaft or slope is located wholly within this state.

Any employee within the meaning of this chapter whose employment necessitates his temporary absence from this state in connection with such employment, and such absence is directly incidental to carrying on an industry in this state, who shall have received injury during such absence in the course of and resulting from his employment shall not be denied the right to participate in the workmen’s compensation fund.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 2B. WEATHER MODIFICATION.
§29-2B-5. Application for license; renewal; temporary suspension.

(a) Any person desiring to do any of the acts specified in section four of this article may file with the director an application in writing for a license. Each application shall be accompanied by a filing fee fixed by the commission but not to exceed one hundred dollars, and shall be on a form to be supplied for such purpose by the director.

(b) Every application shall set forth all of the following:

1. The name and post-office address of the applicant.
2. The previous education, experience and qualifications of the applicant or, if the applicant is other than an individual, the previous education, experience and qualifications of the persons who will be in control of and charged with the operations of the applicant. Previous experience includes subcontracting or counseling services.
3. A general description of the operations which the applicant intends to conduct and the method and type of equipment, including all nucleating agents, that the applicant proposes to use. Aircraft must be listed by numbers and pilots' names.
4. A statement listing all employees who are residents of West Virginia or who will be directly employed in the intended operation, or both.
5. A bond or insurance covering any damage the licensee may cause through his operations in an amount of fifteen thousand dollars or other evidence of financial responsibility shall be furnished and executed at the time of the grant of the license: Provided, That no bond shall be required of any person who shall cause or attempt to cause condensation or precipitation of rain, snow, moisture or water in any form contained in the atmosphere over any landing strip or runway of any airport or any approach thereto in an effort to improve the visibility above the landing strip, runway or approach.
6. Every applicant shall have a resident agent within this state.

(c) Upon the filing of the application upon a form supplied by the director and containing the information prescribed
by this article and accompanied by the required filing fee
and bond or insurance, the director may issue a license to
the applicant entitling the applicant to conduct the operations
described in the application for the calendar year for which
the license is issued, unless the license is sooner revoked,
suspended or modified.

(d) A license may be renewed annually upon application
to the director, accompanied by a renewal fee fixed by the
commission but not to exceed one hundred dollars, on or
before the last day of January of the calendar year for
which the license is renewed.

(e) Any license granted under this section shall be subject
to temporary suspension by the director. Such suspension may
occur whenever the director is notified by the office of
emergency services that, within an area defined by the
office of emergency services, precipitation or other effects
of weather modification operations would be likely to cause
or aggravate a potential or ongoing disaster. Any such
suspension shall continue until the director is notified by
the office of emergency services that the disaster or threat
of disaster has passed. Should any license be suspended
under this subsection, the prohibitions of section four and
penalties of section fifteen of this article shall become effective
immediately.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

N. Darrel Dairy  
Chairman Senate Committee

Clarence G. Chastain, Jr.  
Chairman House Committee

Originated in the Senate.


Hawaridis Carson  
Clerk of the Senate

I. A. Langhership  
Clerk of the House of Delegates

W. T. Brotherton, Jr.  
President of the Senate

Lewis F. McPherson  
Speaker House of Delegates

The within _______ approved ______ this the _______ 


[Signature]

Governor
PRESENTED TO THE GOVERNOR

Date 4/24/23

Time 2:34 p.m.