

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1973

ENROLLED

SENATE BILL NO. 3

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

PASSED April 17 1973

In Effect July 1, 1973 ~~Passage~~

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

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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 thereto 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-

SION; WEST VIRGINIA ANTIQUITIES COMMISSION; PUBLIC EMPLOYEES' AND TEACHERS' RECIPROCAL SERVICE CREDIT ACT; WHITE CANE LAW; WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

ARTICLE 8. PUBLIC RECORDS MANAGEMENT AND PRESERVATION ACT.

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

1 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.

1 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

10 maintenance of the county courthouse, jails, houses for the
11 poor and other county property, so as to prevent the undue
12 deterioration thereof; to supervise and control the maintenance
13 and operation of airport or airports owned or operated by the
14 county court; to supervise and control the purchase, erection
15 and maintenance of airport facilities; to supervise and control
16 the purchase of furniture, fixtures and equipment and janitors'
17 and other supplies for their county; to attend the annual
18 meeting of county assessors and such district meetings as
19 may be called by the state tax commissioner on matters
20 pertaining to the work of the county assessors and the
21 county courts as boards of review and equalization; to
22 review and equalize the assessments made by the assessors;
23 to inspect and review the lists of property, both real and
24 personal, made up by the assessor and his deputies for
25 taxable purposes, and to point out to the assessor any prop-
26 erty, real and personal, which the said assessors of their
27 respective counties may have overlooked or omitted to place
28 on said tax lists; to call to the attention of the assessor all real
29 estate or personal property belonging to churches, lodges,
30 schools or other charitable institutions which may have been
31 overlooked or omitted by the assessor or his deputies in
32 making up his lists of property for entry on the land and
33 personal property books; to supervise the general management
34 of the fiscal affairs and business of each county; and as a
35 further part of their duties they shall be empowered to
36 purchase, lease, rent, control, supervise, inspect, maintain and
37 erect public parks, playgrounds and recreational facilities, to
38 purchase, lease or rent equipment therefor and to employ
39 qualified recreational directors and personnel; to construct
40 new four-h camps on county property; to operate stone
41 quarries and sand deposits on county-owned or leased prop-
42 erty; to construct buildings for or aid in constructing or
43 equipping buildings for emergency services on sites approved
44 by the office of emergency services; to operate dog pounds
45 for county-municipalities; to purchase, lease, rent, control,
46 supervise, inspect, maintain and erect public markets and to
47 purchase, rent or lease equipment therefor and to employ
48 qualified personnel to operate such public markets; and as
49 a further part of their duties they shall be empowered to
50 purchase, lease, rent, control, supervise, inspect, maintain and

51 erect county mental health clinics and engage in any program
52 designed for the betterment of the mental and physical well-
53 being of the residents of their county and to cooperate with
54 any public or private agency for these purposes; to establish
55 and participate in regional planning and development coun-
56 cils; to establish and participate in county commissions on
57 intergovernmental relations as required by section three-q of
58 this article; to establish and participate in county commissions
59 on crime, delinquency and correction as required by section
60 three-r of this article.

61 Compensation shall be allowed and paid out of the county
62 treasury, in the same manner as salaries are paid, to each
63 county commissioner of each county (except as otherwise
64 provided by law for the county of Ohio) for services per-
65 formed for such county concerning the visiting of the poor,
66 inspection of jails, bridges and bridge approaches and for
67 visiting detention homes for children and for providing for
68 and supervising the repair and maintenance of the county
69 courthouse, jails, houses for the poor and other county
70 property; for supervising and controlling the maintenance and
71 operation of airport or airports owned or operated by the
72 county court and supervising and controlling the purchase,
73 erection and maintenance of airport facilities; for supervising
74 and controlling the purchase of furniture, fixtures and equip-
75 ment and janitors' and other supplies of their county; for
76 attending the annual meeting of assessors and such district
77 meetings as may be called by the state tax commissioner on
78 matters pertaining to the work of assessors and county
79 courts as boards of review and equalization; for reviewing
80 and equalizing the assessments made by the assessors; for
81 inspecting and reviewing the lists of property, both real and
82 personal, made up by the assessor and his deputies for taxable
83 purposes and for pointing out to the assessor any property,
84 real and personal, which the said assessors of their respective
85 counties may have overlooked or omitted to place on said tax
86 lists; for calling to the attention of the assessor all real estate
87 or personal property belonging to churches, lodges, schools or
88 other charitable institutions which may have been overlooked
89 or omitted by the assessor or his deputies in making up his
90 lists of property for entry on the land and personal property

91 books; for purchasing, leasing, renting, controlling, super-
92 vising, inspecting, maintaining and erecting public parks,
93 playgrounds and recreational facilities and the purchasing,
94 leasing or renting the equipment therefor and employing
95 qualified recreational directors and personnel therefor; for
96 constructing new four-h camps on county property; operating
97 stone quarries and sand deposits on county-owned or leased
98 property, constructing buildings for or aiding in construction
99 or equipping buildings for emergency services on sites ap-
100 proved by the office of emergency services; operating dog
101 pounds for county-municipalities; to purchase, lease, rent,
102 control, supervise, inspect, maintain and erect public markets,
103 and to purchase, rent or lease equipment therefor and to
104 employ qualified personnel to operate such public markets;
105 for constructing fallout shelters and aiding individuals to
106 construct fallout shelters through furnishing available in-
107 formation; for purchasing, leasing, renting, controlling, super-
108 vising, inspecting, maintaining or erecting county mental
109 health clinics or engaging in programs for the betterment of
110 the mental or physical well-being of the residents of their
111 county; for conducting a survey of all abandoned and
112 dilapidated buildings or structures within the county and to
113 prepare an inventory thereof which inventory shall be made
114 available to any agency of state or federal government or to
115 local governmental agencies upon request; for establishing and
116 participating in regional planning and development councils;
117 for establishing and participating in county commissions on
118 intergovernmental relations as required by section three-q of
119 this article; for establishing and participating in county com-
120 missions on crime, delinquency and correction as required
121 by section three-r of this article and for supervising the gen-
122 eral management of the fiscal affairs and business of each
123 county, within their counties, and other business by such
124 commissioners, in addition to compensation for services in
125 court, the sums of money provided in section five-a of this
126 article.

CHAPTER 11. TAXATION.

ARTICLE 14. GASOLINE TAX.

§11-14-5. Exemptions from tax.

1 There shall be exempted from the excise tax on gasoline or
2 special fuel imposed by this article the following:

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

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

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

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

25 (5) All gallons of gasoline and special fuel used and con-
26 sumed in stationary off-highway turbine engines.

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

29 (7) All gallons of special fuel for boilers.

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

32 (9) All gallons of gasoline or special fuel used as lubri-
33 cants, ingredients or components of any manufactured pro-
34 duct or compound.

35 (10) All gallons of gasoline or special fuel sold to any
36 municipality or agency thereof for use in vehicles or equipment
37 owned and operated by such municipality or agency thereof
38 and when purchased for delivery in bulk quantities of five
39 hundred gallons or more.

40 (11) All gallons of gasoline or special fuel sold to any
41 urban mass transportation authority, created pursuant to the
42 provisions of article twenty-seven, chapter eight of this code,
43 for use in an urban mass transportation system.

44 (12) All gallons of gasoline or special fuel sold for use as
45 aircraft fuel.

46 (13) All gallons of gasoline or special fuel sold for use or
47 used as a fuel for commercial watercraft.

48 (14) All gallons of special fuel sold for use or consumed in
49 railroad diesel locomotives.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 1A. ADJUTANT GENERAL.

§15-1A-3. Duties.

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

22 (b) The adjutant general shall be responsible for the
23 organization, administration, training and supply of the or-
24 ganized militia and shall cause to be procured, prepared
25 and issued to the organizations of the organized militia all

26 necessary books and blanks for reports, records, returns and
27 general administration, and shall, at the expense of the
28 state, cause the military laws, military code and rules and
29 regulations in force to be printed, bound in proper form and
30 distributed, one copy to each commissioned officer, and one
31 each to all the circuit, intermediate and criminal court judges,
32 sheriffs and justices of the peace in the state requiring them
33 and shall procure and supply all necessary textbooks of drill
34 and instruction. He shall keep in his office an accurate
35 account of all state and United States property issued to the
36 state. He shall keep on file in his office all official bonds
37 required by this chapter, the reports and returns of troops and
38 military forces of the state and all other writings and papers
39 which are required to be transmitted to and preserved at the
40 general headquarters of the organized militia.

41 (c) The adjutant general shall keep records of all service
42 personnel from the state of West Virginia, commissioned or
43 enlisted, in any of the wars of the United States and of
44 individual claims of citizens of West Virginia for service
45 rendered in such wars. He shall assist all persons residing in
46 this state having claims against the United States for pension,
47 bounty or back pay or such claims as have arisen out of, or
48 by reason of, service in any of said wars. To this end he shall
49 cooperate with the agents or attorneys of such claimants,
50 furnish to claimants only all necessary certificates or certified
51 abstracts from, or copies of, records or documents in his
52 office and shall seek in all practicable ways to secure speedy
53 and just action in all claims now pending or which may
54 hereafter be filed: *Provided*, That any and all of the above
55 services shall be rendered without charge to the claimant. He
56 shall establish and maintain as a part of his office a bureau of
57 records of the services of the West Virginia troops during such
58 wars and shall keep arranged in proper and convenient form
59 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
2 occurrence of disasters of unprecedented size and destruc-
3 tiveness resulting from enemy attack, sabotage or other

4 hostile action, or from fire, flood, earthquakes or other
5 natural or man-made causes and in order to insure that
6 preparations of this state will be adequate to deal with such
7 disasters, and generally to provide for the common defense
8 and to protect the public peace, health and safety and to
9 preserve the lives and property of the people of the state, it is
10 hereby found and declared to be necessary: (1) To create a
11 state emergency services agency and to authorize the creation
12 of local and regional organizations for emergency services in
13 the political subdivisions of the state; (2) to confer upon the
14 governor and upon the executive heads of governing bodies of
15 the political subdivisions of the state the emergency powers
16 provided herein and (3) to provide for the rendering of mutual
17 aid among the political subdivisions of the state and with
18 other states and to cooperate with the federal government
19 with respect to the carrying out of emergency service functions.

20 It is further declared to be the purpose of this article and
21 the policy of the state that all emergency service functions of
22 this state be coordinated to the maximum extent with the
23 comparable functions of the federal government including its
24 various departments and agencies, of other states and localities
25 and of private agencies of every type, so that the most
26 effective preparation and use may be made of the nation's
27 manpower, resources and facilities for dealing with any disaster
28 that may occur.

§15-5-2. Definitions.

1 As used in this article:

2 (a) "Emergency services" means the preparation for and the
3 carrying out of all emergency functions, other than functions
4 for which military forces are primarily responsible, to pre-
5 vent, minimize and repair injury and damage resulting from
6 disasters caused by enemy attack, sabotage or other hostile
7 action, or by fire, flood, earthquake, or other natural or man-
8 made causes. These functions include, without limitation, fire-
9 fighting services, police services, medical and health serv-
10 ices, rescue, engineering, air-raid warning services, com-
11 munications, radiological, chemical and other special weap-
12 ons defense, evacuation of persons from stricken areas,

13 emergency welfare services, emergency transportation, existing
14 or properly assigned functions of plant protection, temporary
15 restoration of public utility services and other functions
16 related to civilian protection, together with all other activities
17 necessary or incidental to the preparation for and carrying out
18 of the foregoing functions. Disaster includes the imminent
19 threat of disaster as well as its occurrence and any power or
20 authority exercisable on account of a disaster may be exer-
21 cised during the period when there is an imminent threat
22 thereof.

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

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

32 (d) "Political subdivision" means any county or municipal
33 corporation in this state.

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

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

10 The director may employ such technical, clerical, steno-
11 graphic and other personnel and fix their compensation
12 and may make such expenditures within the appropriation
13 therefor or from other funds made available to him for the
14 purpose of providing emergency services as may be necessary
15 to carry out the purpose of this article. Employees of the
16 office of emergency services shall be members of the state civil
17 service system and all appointments of the office, except that
18 of director, shall be a part of the classified service under the

19 civil service system.

20 The director and other personnel of the office of emergency
21 services shall be provided with appropriate office space, furni-
22 ture, equipment, supplies, stationery and printing in the
23 same manner as provided for personnel of other state agencies.

24 The director, subject to the direction and control of the
25 governor, shall be executive head of the office of emergency
26 services and shall be responsible to the governor for carrying
27 out the program for emergency services in this state. He shall
28 coordinate the activities of all organizations for emergency
29 services within the state and maintain liaison with and co-
30 operate with emergency service and civil defense agencies
31 and organizations of other states and of the federal govern-
32 ment and shall have such additional authority, duties and
33 responsibilities authorized by this article as may be prescribed
34 by the governor.

35 The director shall have the power to acquire in the name of
36 the state by purchase, lease or gift, real property and rights or
37 easements necessary or convenient to construct thereon the
38 necessary building or buildings for housing an emergency
39 services control center.

40 The office of emergency planning in the department of
41 finance and administration is hereby abolished and its func-
42 tions, personnel and property transferred to the office of
43 emergency services. The department of civil and defense
44 mobilization is hereby abolished and its functions, personnel
45 and property transferred to the office of emergency services.

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

1 There is hereby created an emergency services advisory
2 council, hereinafter called the council, which shall consist of
3 seven members to be appointed by the governor. The council
4 shall advise the governor and the director on all matters
5 pertaining to emergency services. The governor shall serve as
6 chairman of the council and the members thereof shall serve
7 without compensation but shall be reimbursed for the reason-
8 able and necessary expenses actually incurred in the perfor-
9 mance of their duties.

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

1 The governor shall have general direction and control of the

2 office of emergency services and shall be responsible for the
3 carrying out of the provisions of this article and, in the event
4 of disaster beyond local control, may assume direct opera-
5 tional control over all or any part of the emergency service
6 functions within this state.

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

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

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

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

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

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

39 (5) On behalf of the state, to enter into mutual aid
40 arrangements with other states and to coordinate mutual aid

41 plans between political subdivisions of this state.

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

45 (7) To appoint, in cooperation with local authorities, met-
46 ropolitan area directors when practicable.

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

§15-5-6. Emergency powers of governor.

1 The provisions of this section shall be operative only during
2 the existence of a state of emergency. The existence of a state
3 of emergency may be proclaimed by the governor or by
4 concurrent resolution of the Legislature if the governor in
5 such proclamation, or the Legislature in such resolution, finds
6 that an attack upon the United States has occurred or is
7 anticipated in the immediate future, or that a natural or man-
8 made disaster of major proportions has actually occurred or is
9 imminent within the state, and that the safety and welfare of
10 the inhabitants of this state require an invocation of the
11 provisions of this section. Any such emergency, whether
12 proclaimed by the governor or by the Legislature, shall ter-
13minate upon the proclamation of the termination thereof
14 by the governor, or the passage by the Legislature of a con-

15 current resolution terminating such emergency.

16 So long as such state of emergency exists, the governor
17 shall have and may exercise the following additional emergency
18 powers:

19 (a) To enforce all laws, rules and regulations relating to the
20 provision of emergency services and to assume direct opera-
21 tional control of any or all emergency service forces and
22 helpers in the state;

23 (b) To sell, lend, lease, give, transfer or deliver materials or
24 perform functions relating to emergency services on such
25 terms and conditions as he shall prescribe and without regard
26 to the limitations of any existing law and to account to the
27 state treasurer for any funds received for such property;

28 (c) To procure materials and facilities for emergency
29 services by purchase, condemnation under the provisions of
30 chapter fifty-four of this code or seizure pending institution of
31 condemnation proceedings within thirty days from the seizing
32 thereof and to construct, lease, transport, store, maintain,
33 renovate or distribute such materials and facilities. Com-
34 pensation for property so procured shall be made in the
35 manner provided for in chapter fifty-four of this code;

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

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

44 (f) To control ingress and egress to and from a disaster
45 area, the movement of persons within the area and the occu-
46 pancy of premises therein;

47 (g) To suspend the provisions of any regulatory statute
48 prescribing the procedures for conduct of state business or the
49 orders, rules or regulations of any state agency, if strict
50 compliance therewith would in any way prevent, hinder or
51 delay necessary action in coping with the emergency;

52 (h) To utilize such available resources of the state and of its
53 political subdivisions as are reasonably necessary to cope with
54 the emergency;

55 (i) To suspend or limit the sale, dispensing or trans-
56 portation of alcoholic beverages, firearms, explosives and
57 combustibles;

58 (j) To make provision for the availability and use of tem-
59 porary emergency housing;

60 (k) To perform and exercise such other functions, powers
61 and duties as are necessary to promote and secure the safety
62 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
9 duty upon order of the governor and may function in any
10 part of the state or, upon the conditions specified in this
11 section, in other states.

12 Personnel of mobile support units while on duty, whether
13 within or without the state, shall: (1) If they are employees of
14 the state, have the powers, duties, rights, privileges and
15 immunities and receive the compensation incidental to their
16 employment; (2) if they are employees of a political sub-
17 division of the state and whether serving within or without
18 such political subdivision, have the powers, duties, rights,
19 privileges and immunities and receive the compensation
20 incidental to their employment and (3) if they are not
21 employees of the state or a political subdivision thereof, be
22 entitled to compensation by the state at the same rate as is
23 paid members of circuit court juries and to the same rights
24 and immunities as are provided by law for the employees of
25 this state. All personnel of mobile support units shall, while
26 on duty, be subject to the operational control of the authority
27 in charge of emergency service activities in the area in which
28 they are serving and shall be reimbursed for all necessary
29 travel and subsistence expenses actually incurred.

30 The state shall reimburse a political subdivision for the
31 compensation paid and necessary travel, subsistence and main-

32 tenance expenses actually incurred of employees of such
33 political subdivision while serving as members of a mobile
34 support unit and for all payments for death, disability or
35 injury of such employees incurred in the course of duty and
36 for all losses of or damage to supplies and equipment of such
37 political subdivision resulting from the operation of such
38 mobile support unit.

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

1 Each political subdivision of this state is hereby authorized
2 and directed to establish a local organization for emergency
3 services in accordance with the state plan and program for the
4 provision of emergency services. Such political subdivision
5 may confer or authorize the conferring upon members of the
6 auxiliary police the powers of peace officers, subject to such
7 restrictions as it may impose.

8 Each local organization for emergency services shall consist
9 of a director and a local emergency services council and such
10 other members as may be required. The director shall be
11 appointed by the executive officer or governing body of the
12 political subdivision to serve at the will and pleasure of the
13 executive officer or governing body and such political sub-
14 divisions are authorized to provide adequate compensation
15 for him. The local council shall consist of five members,
16 appointed by the executive officer or governing body of the
17 political subdivision: *Provided*, That not more than three
18 members thereof shall be members of the same political party.
19 Council members shall serve a term of years staggered to
20 provide continuity of service in accordance with local needs,
21 without compensation, but shall be reimbursed for the reason-
22 able and necessary expenses actually incurred in the perfor-
23 mance of their duties.

24 The executive officer or governing body of the political
25 subdivision shall have general direction and control of the
26 local emergency services organization and shall be responsible
27 for carrying out the provisions of this article. The director,
28 subject to the direction and control of such executive officer
29 or governing body, shall be executive head of the local
30 emergency services organization and shall be directly re-
31 sponsible to the executive officer or governing body for the

32 organization, administration and operation of the local emer-
33 gency services program. The local council shall advise the
34 director on all matters pertaining to emergency services. Each
35 local organization shall perform emergency service functions
36 within the territorial limits of the political subdivisions within
37 which it is organized and, in addition, conduct such functions
38 outside of such territorial limits as may be required pursuant
39 to the provisions of sections nine and ten of this article.

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

§15-5-9. Mutual aid agreements.

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

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

§15-5-10. Regional organizations for emergency services.

1 Regional organizations for emergency services may be
2 established in the discretion of the governor for any com-
3 bination of political subdivisions. Each such organization
4 shall be directed by the council which shall consist of the local
5 directors, hereinbefore provided for in section eight of this
6 article, of emergency services of the political subdivisions
7 included in the region for which the organization is estab-
8 lished. The local directors of emergency services shall
9 designate the chairman, who may be one of the local direc-
10 tors, a private citizen or a local official, and may appoint
11 committees representing different groups of interested citizens
12 to assist them in the discharge of their duties. Members of
13 such committees shall not be entitled to compensation for
14 their services. The regional organizations and their members
15 shall, in accordance with the state plan and program for
16 emergency services, engage in such activities and perform such
17 functions and duties as will further the provision of emergency
18 services for the region and state. The emergency service or-
19 ganizations shall coordinate their activities with those of the
20 regional planning and development councils in this state, and
21 each local political subdivision included in the region shall
22 pay its proportionate share of the ordinary expenses of such
23 activities.

24 Any such organization may, within the limits of the funds
25 made available for the purpose by the local political sub-
26 divisions included in the region or by the state, employ
27 necessary personnel and fix their compensation, if any. Any
28 such regional organization may be dissolved, reorganized or
29 rearranged by the governor whenever in his discretion such
30 action is necessary.

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

1 (a) All functions hereunder and all other activities re-
2 lating to emergency services are hereby declared to be gov-
3 ernmental functions. Neither the state nor any political
4 subdivision nor any agency of the state or political subdivi-
5 sion nor, except in cases of willful misconduct, any duly
6 qualified emergency service worker complying with or reason-

7 ably attempting to comply with this article or any order, rule,
8 regulation or ordinance promulgated pursuant to this article,
9 shall be liable for the death of or injury to any person or
10 for damage to any property as a result of such activity. This
11 section shall not affect the right of any person to receive
12 benefits or compensation to which he would otherwise be
13 entitled under this article, chapter twenty-three of this code,
14 any act of Congress or any other law.

15 (b) Any requirement for a license to practice any pro-
16 fessional, mechanical or other skill shall not apply to an
17 authorized emergency service worker who shall, in the course
18 of performing his duties, practice such skill during an emer-
19 gency.

20 (c) As used in this section, "duly qualified emergency
21 service worker" means:

22 (1) Any duly qualified full or part-time paid, volunteer or
23 auxiliary employee of this state, or any other state, territory,
24 possession or the District of Columbia, of the federal gov-
25 ernment, of any neighboring country or political subdivi-
26 sion thereof or of any agency or organization performing
27 emergency services in this state subject to the order or control
28 of or pursuant to the request of the state or any political
29 subdivision thereof.

30 (2) Duly qualified instructors and properly supervised
31 students in recognized educational programs where emer-
32 gency services are taught. A recognized educational program
33 shall include any program in an educational institution exist-
34 ing under the laws of this state and such other educational
35 programs as shall be established by the office of emergency
36 services or otherwise under this article.

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

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

1 Any person owning or controlling real estate or other
2 premises who voluntarily and without compensation grants a

3 license or privilege or otherwise permits the designation or
4 use of the whole or any part of such real estate or premises
5 for the purpose of sheltering persons during an actual, im-
6 pending, mock or practice emergency shall, together with his
7 successors in interest, if any, not be civilly liable for negli-
8 gently causing the death of or injury to any sheltered person
9 on or about such real estate or premises or for loss of or
10 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
2 appropriations in the manner provided by law for making ap-
3 propriations for the ordinary expenses of such political sub-
4 division for the payment of expenses of its local organiza-
5 tion for emergency services or of its proportionate share
6 of expenses of a regional organization for emergency services,
7 or both.

8 Whenever the federal government or any agency or officer
9 thereof shall offer to the state, or through the state to any
10 political subdivision thereof, services, equipment, supplies,
11 materials or funds by way of gift, grant or loan, for pur-
12 poses relating to emergency services, the state, acting through
13 the governor, or such political subdivision, acting with the
14 consent of the governor and through its executive officer
15 or governing body, may accept such offer and upon such
16 acceptance the governor of the state or executive officer or
17 governing body of such political subdivision may autho-
18 rize any officer of the state or of the political subdivision,
19 as the case may be, to receive such services, equipment,
20 supplies, materials or funds on behalf of the state or such
21 political subdivision and subject to the terms of the offer
22 and the rules and regulations, if any, of the agency making
23 the offer.

24 Whenever any person, firm or corporation shall offer to
25 the state or to any political subdivision thereof, services,
26 equipment, supplies, materials or funds by way of gift, grant
27 or loan, for purposes relating to emergency services, the
28 state, acting through the governor, or such political subdivi-
29 sion, acting through its executive officer or governing body,

30 may accept such offer and upon such acceptance the governor
31 of the state or executive officer or governing body of such
32 political subdivision may authorize any officer of the state
33 or of the political subdivision, as the case may be, to re-
34 ceive such services, equipment, supplies, materials or funds
35 on behalf of the state or such political subdivision and sub-
36 ject to the terms of the offer.

§15-5-14. Political activity of emergency service organizations.

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

§15-5-15. Emergency service personnel.

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

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

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

26 tion) I will not advocate or become a member of any political
 27 party or organization that advocates the overthrow of the
 28 government of the United States or this state by force or
 29 violence.”

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

1 In carrying out the provisions of this article, the gover-
 2 nor, the chairmen of the regional councils and the executive
 3 officers or governing bodies of the political subdivisions of
 4 the state are directed to utilize the services, equipment,
 5 supplies and facilities of existing departments, offices and
 6 agencies of the state and of the political subdivisions to the
 7 maximum extent practicable, and the officers and personnel
 8 of all such departments, offices and agencies are directed
 9 to cooperate with and extend such services and facilities
 10 to the governor and to emergency service organizations of
 11 the state upon request.

§15-5-17. Enforcement.

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

§15-5-18. Arrest by peace officer without warrant.

1 A peace officer, when in uniform or displaying a badge
 2 or other insignia of authority, may arrest without a warrant
 3 any person violating or attempting to violate in such officer’s
 4 presence any order, rule or regulation made pursuant to this
 5 article. This authority shall be limited to arrest for viola-
 6 tions of those orders, rules and regulations which affect
 7 the public generally.

§15-5-19. Unorganized militia.

1 The unorganized militia shall, at the call of the governor,
 2 be available for duty with the emergency service forces of
 3 this state. For purposes of this article, the unorganized

4 militia shall consist of all able-bodied men and women
5 between the ages of sixteen and fifty.

§15-5-20. Disaster prevention.

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

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

§15-5-21. Communications.

1 The office of emergency services shall ascertain what means
2 exist for rapid and efficient communication in times of
3 disaster. The office shall consider the desirability of supple-
4 menting such communication resources or of integrating them
5 into a comprehensive state or federal-state telecommunica-
6 tions or other communications system or network. In study-
7 ing the character and feasibility of any system or its several
8 parts, the office shall evaluate the possibility of multi-purpose
9 use thereof for various state, regional and local governmental

10 purposes. The office shall make recommendations to the gov-
11 ernor as appropriate.

§15-5-22. Enactment of compact.

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

6 INTERSTATE CIVIL DEFENSE AND
7 DISASTER COMPACT

8 Article I.

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

27 Article II.

28 It shall be the duty of each party state to formulate
29 civil defense plans and programs for application within such
30 state. There shall be frequent consultation between the re-
31 presentatives of the states and with the United States govern-
32 ment and the free exchange of information and plans,
33 including inventories of any materials and equipment avail-

34 able for civil defense. In carrying out such civil defense
35 plans and programs the party states shall so far as possible
36 provide and follow uniform standards, practices and rules
37 and regulations including:

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

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

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

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

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

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

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

56 (h) The safety of public meetings or gatherings and

57 (i) Mobile support units.

58

Article III.

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

74 control of the civil defense authorities of the state receiving
75 assistance.

76 Article IV.

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

84 Article V.

85 No party state or its officers or employees rendering aid
86 in another state pursuant to this compact shall be liable on
87 account of any act or omission in good faith on the part
88 of such forces while so engaged or on account of the main-
89 tenance or use of any equipment or supplies in connection
90 therewith.

91 Article VI.

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

104 Article VII.

105 Each party state shall provide for the payment of com-
106 pensation and death benefits to injured members of the
107 civil defense forces of that state and the representatives of
108 deceased members of such forces in case such members
109 sustain injuries or are killed while rendering aid pursuant to
110 this compact, in the same manner and on the same terms

111 as if the injury or death were sustained within such state.

112

Article VIII.

113 Any party state rendering aid in another state pursuant to
114 this compact shall be reimbursed by the party state receiving
115 such aid for any loss or damage to or expense incurred in
116 the operation of any equipment answering a request for
117 aid and for the cost incurred in connection with such requests:
118 *Provided*, That any aiding party state may assume in whole
119 or in part such loss, damage, expense or other cost or may
120 loan such equipment or donate such services to the receiv-
121 ing party state without charge or cost: *And provided further*,
122 That any two or more party states may enter into supple-
123 mentary agreements establishing a different allocation of
124 costs among those states. The United States government
125 may relieve the party state receiving aid from any liability
126 and reimburse the party state supplying civil defense forces
127 for the compensation paid to and the transportation, sub-
128 sistence and maintenance expenses of such forces during
129 the time of the rendition of such aid or assistance outside
130 the state and may also pay fair and reasonable compensa-
131 tion for the use or utilization of the supplies, materials,
132 equipment or facilities so utilized or consumed.

133

Article IX.

134 Plans for the orderly evacuation and reception of the
135 civilian population as the result of an emergency or disaster
136 shall be worked out from time to time between representa-
137 tives of the party states and the various local civil defense
138 areas thereof. Such plans shall include the manner of trans-
139 porting such evacuees, the number of evacuees to be re-
140 ceived in different areas, the manner in which food, cloth-
141 ing, housing and medical care will be provided, the registra-
142 tion of the evacuees, the providing of facilities for the notifi-
143 cation of relatives or friends and the forwarding of such
144 evacuees to other areas or the bringing in of additional
145 materials, supplies and all other relevant factors. Such plans
146 shall provide that the party states receiving evacuees shall
147 be reimbursed generally for the out-of-pocket expenses in-
148 curred in receiving and caring for such evacuees, for ex-
149 penditures for transportation, food, clothing, medicines and

150 medical care and like items. Such expenditures shall be
151 reimbursed by the party state of which the evacuees are
152 residents or by the United States government under plans
153 approved by it. After the termination of the emergency or
154 disaster the party state of which the evacuees are resident
155 shall assume the responsibility for the ultimate support or
156 repatriation of such evacuees.

157 Article X.

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

162 Article XI.

163 The committee established pursuant to article one of this
164 compact may request the civil defense agency of the United
165 States government to act as an informational and coordinat-
166 ing body under this compact and representatives of such
167 agency of the United States government may attend meetings
168 of such committee.

169 Article XII.

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

179 Article XIII.

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

187

Article XIV.

188 This compact shall be construed to effectuate the pur-
189 poses stated in article one hereof. If any provision of this
190 compact is declared unconstitutional or the applicability
191 thereof to any person or circumstance is held invalid, the
192 constitutionality of the remainder of this compact and the
193 applicability thereof to other persons and circumstances shall
194 not be effected thereby.

§15-5-23. Severability.

1 If any provision of this article or the application thereof
2 to any person or circumstance is held invalid, such invalidity
3 shall not affect other provisions or applications of the article
4 which can be given effect without the invalid provision or
5 application, and to this end the provisions of this article
6 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
2 become effective when the legislator or floor leader authorized
3 by section six of this article to make such designation
4 files with the secretary of state the successor's name, address
5 and rank in order of succession. The removal of an emergency
6 interim successor or change in order of succession shall
7 become effective when the legislator or floor leader authorized
8 by section six of this article to do so, files this information
9 with the secretary of state. All such data shall be open to
10 public inspection. The secretary of state shall inform the
11 governor, the director of the office of emergency services,
12 the clerk of the house concerned and all emergency interim
13 successors of all such designations, removals and changes in
14 order of succession. The clerk of each house shall enter all
15 information regarding emergency interim successors for the
16 house in its public journal at the beginning of each legislative
17 session and shall enter all changes in membership or order
18 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.

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

9 All persons, firms, associations and corporations regularly
10 employing other persons for the purpose of carrying on any
11 form of industry, service or business in this state, including
12 county courts, municipalities, other political subdivisions of
13 the state, and emergency service organizations organized under
14 article five, chapter fifteen of this code, are employers
15 within the meaning of this chapter and subject to its pro-
16 visions: *Provided*, That the provisions of section eight, arti-
17 cle two of this chapter shall not apply to such county
18 courts, municipalities, other political subdivisions of the state
19 or emergency service organizations: *Provided, however*, That
20 the failure of such county courts, municipalities, other poli-
21 tical subdivisions of the state or emergency service organi-
22 zations to elect to subscribe to and to pay premiums into
23 the workmen's compensation fund shall not impose any lia-
24 bility upon them, other than such liability as would exist
25 notwithstanding the provisions of this chapter. All persons
26 in the service of employers as herein defined, and employ-
27 ed by them for the purpose of carrying on the industry, busi-
28 ness, service or work in which they are engaged, includ-
29 ing persons regularly employed in the state whose duties
30 necessitate employment of a temporary or transitory nature
31 by the same employer without the state, check-weighmen
32 employed according to law, all members of rescue teams
33 assisting in mine accidents with the consent of the owner
34 who, in such case, shall be deemed the employer, or at
35 the direction of the director of the department of mines,
36 and all forest fire fighters who, under the supervision of
37 the director of the department of natural resources or his

38 designated representative, assist in the prevention, confine-
39 ment and suppression of any forest fire are employees with-
40 in the meaning of this chapter and subject to its provisions:
41 *Provided further*, That this chapter shall not apply to em-
42 ployers of employees in domestic service or persons whose
43 employment is prohibited by law, nor to employees of an
44 employer while employed without the state, except in case
45 of temporary employment without the state as hereinbe-
46 fore provided; nor shall a member of a firm of employers
47 or any official of an association or of a corporate employer,
48 including a manager or any elective or appointive official
49 of the state, county, county court, board of education,
50 municipality, other political subdivision of the state or emer-
51 gency service organization organized as aforesaid, whose
52 term of office is definitely fixed by law, be deemed an
53 employee within the meaning of this chapter: *And pro-*
54 *vided further*, That employers of not more than three em-
55 ployees for a period of not more than one month, who
56 shall be called herein "casual employers," employers
57 of employees in agricultural service and duly incorporated
58 volunteer fire departments or companies may voluntarily
59 elect to subscribe to and pay premiums into the workmen's
60 compensation fund for the protection of the employees
61 of such employers and all of the members, including the
62 chief, commander or other officials thereof, of such duly
63 incorporated volunteer fire departments or companies, and
64 in such case shall be subject to all requirements of this
65 chapter and all rules and regulations prescribed by the com-
66 missioner with reference to rates, classifications and pre-
67 mium payments; but such casual employers, employers of
68 employees in agricultural service and duly incorporated
69 volunteer fire departments or companies' shall not be re-
70 quired to subscribe to the workmen's compensation fund
71 and their failure to subscribe to such fund shall not im-
72 pose any liability upon them other than such liability
73 as would exist notwithstanding the provisions of this
74 chapter; nor shall the provisions of section eight of this
75 article apply to casual employers, employers of employees
76 in agricultural service or to such duly incorporated volunteer
77 fire departments or companies.

78 The premium and actual expenses in connection with govern-
79 mental agencies and departments of the state of West
80 Virginia shall be paid out of the state treasury from appro-
81 priations made for such agencies and departments, in the
82 same manner as other disbursements are made by such agencies
83 and departments.

84 County courts, municipalities, other political subdivisions
85 of the state, county boards of education, emergency service
86 organizations organized as aforesaid and duly incorporated
87 volunteer fire departments or companies which shall elect
88 to become subscribers to the workmen's compensation fund
89 shall provide for the funds to pay their prescribed premiums
90 into the fund and such premiums and premiums of state
91 agencies and departments, including county boards of educa-
92 tion, shall be paid into the fund in the same manner as
93 herein provided for other employers subject to this chapter.
94 In addition to its usual and ordinary meaning, the term
95 "employer" or "employers," as used in this chapter, shall
96 be taken to extend to and include any duly incorporated
97 volunteer fire department or company or emergency service
98 organization organized as aforesaid which shall elect to
99 subscribe to and pay premiums into the workmen's compen-
100 sation fund and, in addition to its usual and ordinary mean-
101 ing, the term "employee" or "employees," as used in this
102 chapter, shall be taken to extend to and include all of
103 the members of any such department, company or organi-
104 zation. All duly incorporated volunteer fire departments or
105 companies and emergency service organizations organized
106 as aforesaid which shall elect to subscribe to and pay
107 premiums into such fund shall be placed in a separate
108 group or class of subscribers to be established by the com-
109 missioner and such departments, companies or organizations
110 shall pay into the fund such premiums (computed, notwith-
111 standing the provisions of section five of this article, on
112 such basis as to the commissioner shall seem right and
113 proper) as may be necessary to keep such group or class
114 entirely self-supporting.

115 Any employer whose employment in this state is to be
116 for a definite or limited period which could not be con-
117 sidered "regularly employing" within the meaning of this

118 section may elect to pay into the workmen's compensation
119 fund the premiums herein provided for and, at the time
120 of making application to the commissioner, such employer
121 shall furnish a statement under oath showing the probable
122 length of time the employment will continue in this state,
123 the character of the work, an estimate of the monthly pay-
124 roll and any other information which may be required by
125 the commissioner. At the time of making application such
126 employer shall deposit with the state compensation com-
127 missioner to the credit of the workmen's compensation fund
128 the amount required by section five of this article, which
129 amount shall be returned to such employer if his applica-
130 tion be rejected by the commissioner. Upon notice to such
131 employer of the acceptance of his application by the com-
132 missioner, he shall be an employer within the meaning of
133 this chapter and subject to all of its provisions.

134 Any foreign corporation employer electing to comply with
135 the provisions of this chapter and to receive the benefits
136 hereunder shall, at the time of making application to the
137 commissioner, in addition to other requirements of this chap-
138 ter, furnish such commissioner with a certificate from the
139 secretary of state showing that it has complied with all the
140 requirements necessary to enable it legally to do business in
141 this state and no application of such foreign corporation em-
142 ployer shall be accepted by the commissioner until such certi-
143 ficate is filed.

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

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

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 2B. WEATHER MODIFICATION.

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

- 1 (a) Any person desiring to do any of the acts specified
2 in section four of this article may file with the director
3 an application in writing for a license. Each application
4 shall be accompanied by a filing fee fixed by the commission
5 but not to exceed one hundred dollars, and shall be on
6 a form to be supplied for such purpose by the director.
- 7 (b) Every application shall set forth all of the follow-
8 ing:
- 9 (1) The name and post-office address of the applicant.
- 10 (2) The previous education, experience and qualifications
11 of the applicant or, if the applicant is other than an indivi-
12 dual, the previous education, experience and qualifications
13 of the persons who will be in control of and charged with
14 the operations of the applicant. Previous experience includes
15 subcontracting or counseling services.
- 16 (3) A general description of the operations which the
17 applicant intends to conduct and the method and type of
18 equipment, including all nucleating agents, that the applicant
19 proposes to use. Aircraft must be listed by numbers and
20 pilots' names.
- 21 (4) A statement listing all employees who are residents
22 of West Virginia or who will be directly employed in the
23 intended operation, or both.
- 24 (5) A bond or insurance covering any damage the licensee
25 may cause through his operations in an amount of fifteen
26 thousand dollars or other evidence of financial responsibility
27 shall be furnished and executed at the time of the grant of
28 the license: *Provided*, That no bond shall be required of
29 any person who shall cause or attempt to cause condensation
30 or precipitation of rain, snow, moisture or water in any
31 form contained in the atmosphere over any landing strip or
32 runway of any airport or any approach thereto in an effort
33 to improve the visibility above the landing strip, runway
34 or approach.
- 35 (6) Every applicant shall have a resident agent within
36 this state.
- 37 (c) Upon the filing of the application upon a form supplied
38 by the director and containing the information prescribed

39 by this article and accompanied by the required filing fee
40 and bond or insurance, the director may issue a license to
41 the applicant entitling the applicant to conduct the operations
42 described in the application for the calendar year for which
43 the license is issued, unless the license is sooner revoked,
44 suspended or modified.

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

50 (e) Any license granted under this section shall be subject
51 to temporary suspension by the director. Such suspension may
52 occur whenever the director is notified by the office of
53 emergency services that, within an area defined by the
54 office of emergency services, precipitation or other effects
55 of weather modification operations would be likely to cause
56 or aggravate a potential or ongoing disaster. Any such
57 suspension shall continue until the director is notified by
58 the office of emergency services that the disaster or threat
59 of disaster has passed. Should any license be suspended
60 under this subsection, the prohibitions of section four and
61 penalties of section fifteen of this article shall become effective
62 immediately.

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

N. Darrel Darby
Chairman Senate Committee

Lawrence C. Christian, Jr.
Chairman House Committee

Originated in the Senate.

Takes effect July 1, 1973.

Howard Watson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

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

Lewis F. Williams
Speaker House of Delegates

The within approved this the 24th
day of April, 1973.

Arna Shaver, Jr.
Governor

**PRESENTED TO THE
GOVERNOR**

Date 4/24/73

Time 2:34 p.m.

RECEIVED

MAY 3 3 35 AM '73

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA