ENROLLED

Committee Substitute for

HOUSE BILL No. 1563

(By Mr. Speaker, Mr. Kopp)

PASSED March 10, 1978

In Effect from Passage
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COMMITTEE SUBSTITUTE

FOR

H. B. 1563

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[Passed March 10, 1978; in effect from passage.]

AN ACT to amend and reenact sections one, two, three, four, five, article five, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the office of emergency services and the general powers of the governor.

Be it enacted by the Legislature of West Virginia:

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

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 destructive-ness, 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 govern-
ment 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 compa-
parable 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 effec-
tive preparation and use may be made of the nation's man-
power, 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 func-
tions 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 na-
tural or other man-made causes. These functions include, with-
out limitation, fire-fighting services, police services, medical
and health services, communications, radiological, chemical
and other special weapons defense, evacuation of persons from
stricken areas, emergency welfare services, emergency trans-
portation, existing or properly assigned functions of plant pro-
tection, 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 exercised 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 function.

(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 article, the director of civil and defense mobilization referred to in said section two-a shall be known and designated as the director of emergency services.

The director, may employ such technical, clerical, stenographic and other personnel and fix their compensation and may make such expenditures within the appropriation therefor or from other funds made available to him for the purpose of 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 those required by law to be exempt, shall be a part of the classified service under the civil service system.

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 operational 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 empowered:

(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 service in this state, such plan and program to be integrated into and coordinated with comparable plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of such plans and programs by the political subdivisions 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 emergency service personnel in time of need.

(4) To make such studies and surveys of industries, resources 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 arrange-
ments with other states and to coordinate mutual aid plans be-
tween political subdivisions of this state.

(6) To delegate the administrative authority vested in him
under this article, to provide for the delegation or transfer or
both of the authority vested in the director under the provisions
of this article, to any other person as the governor in his
discretion may direct, 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 direc-
tion and control of (a) blackouts and practice blackouts,
air raid drills, mobilization of emergency service and civil de-
fense 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 con-
nections and the suspension of all other utility services; (e) the
conduct of civilians and the movement and cessation of move-
ment of pedestrians and vehicular traffic during, prior and
subsequent to drills or attack; (f) public meetings or gather-
ings; and (g) the evacuation and reception of the civilian
population.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James E. Davis  
Chairman Senate Committee

Clarence E. Christian Jr.  
Chairman House Committee

Originated in the House.

Takes effect from passage.

Cris Diller  
Clerk of the Senate

C. R. Blankenship  
Clerk of the House of Delegates

J. M. Battle  
President of the Senate

Donald L. Zupp  
Speaker House of Delegates

The within is approved this the 30 day of March, 1978.

John D. Robertson  
Governor