

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 134**

BY SENATORS GAUNCH, BLAIR, SWOPE, BALDWIN,

JEFFRIES, OJEDA, CLINE, AND MARONEY

[Originating in the Committee on Government

Organization; reported on January 17, 2018]

1 A BILL to amend and reenact §15-5-3 of the Code of West Virginia, 1931, as amended, relating  
2 to authorizing the Division of Homeland Security and Emergency Management to contract  
3 with or employ individuals and contract for goods for the purpose of emergency response  
4 and recovery; and providing requirements for such contracts or employment.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT.**

**§15-5-3. Division of Homeland Security and Emergency Management created.**

1 (a) The Office of Emergency Services is continued as the Division of Homeland Security  
2 and Emergency Management within the Department of Military Affairs and Public Safety. All of  
3 the allied, advisory, affiliated or related entities, and funds associated with the Office of  
4 Emergency Services and all its functions, personnel, and property, are transferred to,  
5 incorporated in, and administered as a part of the Division of Homeland Security and Emergency  
6 Management. Wherever the words "Office of Emergency Services" appear in this code, they shall  
7 mean the Division of Homeland Security and Emergency Management.

8 (b) A Director of the Division of Homeland Security and Emergency Management shall be  
9 appointed by the Governor, by and with the advice and consent of the Senate. The Governor shall  
10 consider applicants for director who at a minimum: (1) Have at least five years managerial or  
11 strategic planning experience; (2) are knowledgeable in matters relating to public safety,  
12 homeland security, emergency management and emergency response; and (3) have, at a  
13 minimum, a federally issued secret level security clearance or have submitted to or will submit to  
14 a security clearance investigation for the purpose of obtaining, at a minimum, a federally issued  
15 secret level security clearance.

16 (c) The director may employ such technical, clerical, stenographic, and other personnel,  
17 fix their compensation and make expenditures within the appropriation to the division or from other

18 funds made available for the purpose of providing homeland security and emergency  
19 management services to carry out the purpose of this article. Employees of the Division of  
20 Homeland Security and Emergency Management shall be members of the state Civil Service  
21 System and all appointments of the office, except those required by law to be exempt, shall be a  
22 part of the classified service under the Civil Service System: Provided, That the director may  
23 employ personnel that are not members of the Civil Service System for purposes provided in §15-  
24 5-3(g) of this code.

25 (d) The director and other personnel of the Division of Homeland Security and Emergency  
26 Management shall be provided with appropriate office space, furniture, equipment, supplies,  
27 stationery and printing in the same manner as provided for personnel of other state agencies.

28 (e) The director, subject to the direction and control of the Governor through the Secretary  
29 of the Department of Military Affairs and Public Safety, shall be the executive head of the Division  
30 of Homeland Security and Emergency Management and shall be responsible to the Governor and  
31 the Secretary of the Department of Military Affairs and Public Safety for carrying out the program  
32 for homeland security and emergency management in this state. The director, in consultation with  
33 the Secretary of the Department of Military Affairs and Public Safety, shall coordinate the activities  
34 of all organizations for homeland security and emergency management within the state and  
35 maintain liaison with and cooperate with homeland security, emergency management and other  
36 emergency service and civil defense agencies and organizations of other states and of the federal  
37 government, and shall have additional authority, duties, and responsibilities authorized by §15-5-  
38 1 *et seq.* of this code as may be prescribed by the Governor or the Secretary of the Department  
39 of Military Affairs and Public Safety.

40 (f) The director shall have the power to acquire in the name of the state by purchase,  
41 lease, or gift, real property and rights or easements necessary or convenient to construct thereon  
42 the necessary building or buildings for housing and homeland security and emergency  
43 management control center.

44 (g) The director may, for the purposes of responding to a declared state of emergency or  
45 for the recovery from a declared state of emergency following the termination of the declaration,  
46 employ personnel or enter into contracts and subcontracts for goods or specialized technical  
47 services, subject to the following provisions:

48 (1) Employee positions shall be contingent on the receipt of the necessary federal and/or  
49 state funds.

50 (2) All employees employed pursuant to this subsection shall be exempt from both the  
51 classified services category and the classified exempt services category provided in §29-6-4 of  
52 this code.

53 (3) Each employee hired shall be deemed an at-will employee who may be discharged or  
54 released from his or her respective position without cause or reason.

55 (4) Employees may participate in the PEIA, PERS, workers' compensation, unemployment  
56 compensation programs, or their equivalents.

57 (5) The director shall set appropriate salary rates for employees equivalent to a rate  
58 commensurate with industry standards.

59 (6) Contracts may be entered into pursuant to this subsection with the federal government,  
60 its instrumentalities and agencies, any state, territory or the District of Columbia and its agencies  
61 and instrumentalities, municipalities, foreign governments, public bodies, private corporations,  
62 partnerships, associations and individuals for specialized technical services at a rate  
63 commensurate with industry standards as determined by the director to support specific activities  
64 related to the response to or the recovery from a declared state of emergency.

NOTE: The purpose of this bill is to grant the Division of Homeland Security and Emergency Management the authority to employ personnel or enter into contracts for goods and specialized technical services for the purposes of responding to a declared state of emergency or the recovery from a declared state of emergency.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

CS for SB 134

This bill is recommended for introduction and passage by the Legislature during its 2018 Regular Session by the Joint Legislative Committee on Flooding.