WEST virginia legislature

2021 regular session

ENROLLED

House Bill 3089

By Delegates G. Ward, Anderson, Riley, J. Kelly, Paynter, Queen, L. Pack, Haynes, Kimble, Ferrell and Holstein

[Passed April 10, 2021; in effect ninety days from passage.]

AN ACT to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §15-5-30, all relating to homeland security and emergency management; defining terms; and providing that employees of public utilities, cable television operators, telecommunications carriers, and publicly or privately owned water and sewer systems shall be considered essential workers to ensure that these services can continue to operate or be restored during a state of emergency or state of preparedness.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-2. Definitions.

As used in this article:

“Board” means the West Virginia Disaster Recovery Board created by this article;

“Code” means the Code of West Virginia, 1931, as amended;

“Community facilities” means a specific work, or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

“Critical infrastructure” includes any systems and assets, whether physical or virtual, so vital to the state that the incapacity or destruction of such systems and assets would have a debilitating impact on security, state economic security, state public health or safety, or any combination of those matters.

“Disaster” means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or terrorist or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;

“Disaster recovery activities” means activities undertaken prior to, during or following a disaster to provide, or to participate in the provision of, critical infrastructure, emergency services, temporary housing, residential housing, essential business activities, and community facilities;

“Emergency services” means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond, and recover, to prevent, detect, deter, and mitigate, to minimize and repair injury and damage resulting from disasters or other event caused by flooding, terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions include, without limitation, critical infrastructure services, firefighting services, police services, medical and health services, communications, emergency telecommunications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to the health, safety, and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat;

“Essential business activities” means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or critical infrastructure services determined by the authority to be necessary for continued operations during a disaster, state of emergency, or state of preparedness, and for recovery from a disaster;

“Essential workers” means employees or contractors that fall under the definition of essential business activities during a disaster, state of emergency, or state of preparedness.

“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 services function;

“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;

“Person” means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

“Political subdivision” means any county or municipal corporation in this state;

“Recovery fund” means the West Virginia Disaster Recovery Trust Fund created by this article;

“Residential housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and any other nonhousing facilities that are incidental or appurtenant thereto;

“Secretary” means the Secretary of the West Virginia Department of Military Affairs and Public Safety; and

“Temporary housing” means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster and such other nonhousing facilities that are incidental or appurtenant thereto.

§15-5-30. State of emergency; state of preparedness; essential workers.

(a) During a state of emergency or state of preparedness, set forth by the Governor, employees of public utilities, cable television operators, telecommunications carriers, and publicly or privately owned water and sewer systems shall be considered essential workers to ensure that these services can continue to operate or be restored.

(b) Contractors, vendors, and suppliers of public utilities, cable television operators, telecommunications carriers, and publicly or privately owned water and sewer systems of the state shall be considered essential workers to aid the utilities and telecommunications services in continuation of services to its customers.

(c) The provisions of subsections (a) and (b) of this section apply only and specifically for the purpose of ensuring that public utilities, cable television operators, telecommunications carriers, and publicly or privately owned water and sewer systems can continue to operate or be restored and may not be construed or interpreted in any way to have any relevance or meaning beyond this specific purpose.

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

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 *Chairman, House Committee*

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 *Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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 *Clerk of the House of Delegates*

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 *Clerk of the Senate*

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 *Speaker of the House of Delegates*

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 *President of the Senate*

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day of ..........................................................................................................., 2021.

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 *Governor*