

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3089

BY DELEGATES G. WARD, ANDERSON, RILEY, J. KELLY,
PAYNTER, QUEEN, L. PACK, HAYNES, KIMBLE, FERRELL
AND HOLSTEIN

[Introduced March 12, 2021; referred to the
Committee on Workforce Development then the
Judiciary]

1 A BILL to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; and to
2 amend said code by adding thereto a new section, designated §15-5-30, all relating to
3 defining, as “essential workers”, employees or contractors who work for companies that
4 fall under the definition of essential business activities during a state of emergency or state
5 of preparedness to ensure that utility services can continue to operate or be restored.

Be it enacted by the Legislature of West Virginia:

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

§15-5-2. Definitions.

1 As used in this article:

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

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

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

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

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

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

30 “Essential business activities” means a specific work or improvement within this state or a
31 specific item of equipment or tangible personal property used within this state by any person to
32 provide any essential goods or service determined by the authority to be necessary for recovery
33 from a disaster or for operations during a pandemic or other shut downs ordered by the Governor
34 and includes all utility services provided to persons in the state;

35 “Essential Workers” means employee or contractors who work for companies that fall
36 under the definition of essential business activities during a state of emergency or state of
37 preparedness;

38 “Local organization for emergency services” means an organization created in accordance
39 with the provisions of this article by state or local authority to perform local emergency services
40 function;

41 “Mobile support unit” means an organization for emergency services created in
42 accordance with the provisions of this article by state or local authority to be dispatched by the
43 Governor to supplement local organizations for emergency services in a stricken area;

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

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

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

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

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

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

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

1 (a) During a state of emergency or state of preparedness, set forth by the Governor,
2 employees of utilities of the state shall be considered essential workers to ensure that utility
3 services can continue to operate or be restored.

4 (b) Contractors, vendors, and suppliers of the utilities of the state shall be considered
5 essential workers to aid the utilities in continuation of service to its customers.

6 (C) The provisions of subsections (a) and (b) of this section apply only and specifically for
7 the purpose of ensuring that utility services can continue to operate or be restored, and may not
8 be construed or interpreted in any way to have any relevance or meaning beyond this specific
9 purpose.

NOTE: The purpose of this bill is to define, as “essential workers”, employees or contractors who work for companies that fall under the definition of essential business activities during a state of emergency or state of preparedness to ensure that utility services can continue to operate or be restored.

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