

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2424

By Delegates Anders, White, Ridenour, Kump,

Kimble, T. Howell, Dean, and Bridges

[Introduced February 17, 2025; referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §15-5-6 of the Code of West Virginia, 1931, as amended, relating to
2 requiring a full legislative vote regarding all Gubernatorial declarations of a state of
3 preparedness or state of emergency.

Be it enacted by the Legislature of West Virginia:

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

**§15-5-6. Proclamation of a state of emergency or state of preparedness by the Governor or
the Legislature; additional powers of the Governor and Legislature during a state of
emergency or state of preparedness.**

1 (a) The provisions of this section, and any executive order issued pursuant to the
2 provisions of this section, are operative only during the existence of a state of emergency or state
3 of preparedness: *Provided*, That nothing in this section or in any executive order issued hereunder
4 may be construed to suspend or supersede any provision of the United States Constitution or
5 West Virginia Constitution.

6 (b) The existence of a state of emergency may be proclaimed by the Governor by
7 executive order or by concurrent resolution of the Legislature if the Governor in the proclamation,
8 or the Legislature in the concurrent resolution, finds that conditions warranting the proclamation of
9 a state of emergency, as defined in this article, exist, and that the health, safety, and welfare of the
10 inhabitants of this state require an invocation of the provisions of this section: *Provided*, That a
11 gubernatorially proclaimed state of emergency expires 60 days after issuance of the executive
12 order unless, prior to the 60th day, the Legislature adopts a concurrent resolution extending the
13 state of emergency beyond 60 days. A concurrent resolution adopted by the Legislature to extend
14 a state of emergency proclaimed by the governor shall set forth within its terms the length of time
15 for which the state of emergency shall be extended. A state of emergency, whether proclaimed by
16 the Governor or by the Legislature, terminates upon the issuance of a proclamation of termination

17 by the Governor, or the passage by the Legislature of a concurrent resolution terminating the state
18 of emergency.

19 (c) The existence of a state of preparedness may be proclaimed by the Governor by
20 executive order or by concurrent resolution of the Legislature, if the Governor in the proclamation
21 or the Legislature in the resolution, finds that conditions warranting the proclamation of a state of
22 preparedness, as defined in this article, exist, and that the health, safety, and welfare of the
23 inhabitants of this state require the invocation of the provisions of this section: *Provided*, That the
24 Governor or the Legislature shall proclaim a state of preparedness as a "Class I state of
25 preparedness" or a "Class II state of preparedness", as defined in this article, by law: *Provided*
26 *however*, That a gubernatorially proclaimed Class I state of preparedness expires 30 days after
27 issuance of the executive order unless, prior to the 30th day, the Legislature adopts a concurrent
28 resolution extending the state of preparedness beyond 30 days. A concurrent resolution adopted
29 by the Legislature to extend a Class I state of preparedness proclaimed by the governor shall set
30 forth within its terms the length of time for which the state of preparedness shall be extended. A
31 Class II state of preparedness, whether proclaimed by the Governor ~~of~~ or by the Legislature,
32 terminates upon the issuance of a proclamation of termination by the Governor, or the passage by
33 the Legislature of a concurrent resolution terminating the Class II state of preparedness.

34 (d) When a state of emergency follows a state of preparedness involving the same or
35 substantially similar circumstances, the total time allotted for the duration of the two combined
36 shall be no more than 90 days, unless the Governor follows the requirements for extending the
37 state of emergency under subsection (b) of this section.

38 (e) Any proclamation or concurrent resolution issued under this section shall include, in
39 general terms:

40 (1) A description of the facts and circumstances warranting the proclamation or concurrent
41 resolution; and

42 (2) A designation of the geographic area threatened.

(f) Any proclamation or resolution shall be disseminated as soon as practicable to the news media and any other means which are calculated to bring its contents to the attention of the general public: *Provided*, That for a gubernatorial proclamation of a state of emergency or state of preparedness, the Governor shall provide a copy of the executive order to the President of the Senate, the Speaker of the House of Delegates, and the Joint Committee on Government and Finance: *Provided, however, That for any gubernatorial proclamation of a state of emergency, the Legislature must convene within 48 hours in order to determine if the state of preparedness or emergency should persist, and, if so, which actions proclaimed by the Governor are to be continued and what, if any, further actions are necessary for the health, safety, and welfare of the inhabitants of this state during the current state of preparedness or state of emergency.*

(g) Under a duly proclaimed state of emergency or state of preparedness, the Governor has the following additional temporary powers until the Legislature convenes which are intended to be construed to authorize actions which are consistent with constitutional or statutory law, or with final orders of those courts of competent jurisdiction to which the Governor is subject:

(1) To enforce all laws and rules relating to the provision of emergency services and to assume direct operational control of any or all emergency service entities and personnel in the state;

(2) To sell, lend, lease, give, or transfer property, to make purchases, deliver materials or perform functions relating to emergency services on terms and conditions he or she prescribes without regard to the limitations of any existing law or being required to account to the State Treasurer for any funds received for the property;

(3) To procure materials and facilities for emergency services by purchase, condemnation under the provisions of §54-1-1 *et seq.* of this code, or seizure pending institution of condemnation proceedings within 30 days from the seizing thereof and to construct, lease, transport, store, maintain, renovate, or distribute the materials and facilities. Compensation for the procured property shall be made in the manner provided in §54-1-1 *et seq.* of this code;

(4) To obtain the services of necessary personnel required during the emergency or in preparation for the emergency, and to compensate such personnel for their services from the Governor's Contingent Fund or other funds available to him or her;

(5) To provide and compel the evacuation of all or part of the population from any stricken or threatened area within the state and to take steps that are necessary for the receipt and care of the evacuees;

(6) To control ingress and egress into or out of a disaster area or other area subject to a state of emergency or state of preparedness, as well as the movement of persons and occupancy of premises within the area;

(7) To suspend the provisions of any statute prescribing the procedures for the conduct of state business or the orders, or rules of any state agency, if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency: *Provided*, That nothing in this subdivision may be construed as granting the Governor the power to suspend any provision of this section;

(8) To use available resources of the state and of its political subdivisions that are reasonably necessary to cope with the emergency or to prepare for the emergency;

(9) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles: *Provided*, That explosives and combustibles do not include firearms, ammunition, components of ammunition, or ammunition-reloading equipment and supplies;

(10) To make provision for the availability and use of temporary emergency housing; and

(11) To perform and exercise other functions, powers and duties that are necessary to promote and secure the safety and protection of the civilian population.

(h) After the Legislature has declared or voted to maintain a state of emergency or state of preparedness, the Legislature has the following additional powers which continue for the duration of the state of emergency, which are intended to be construed to authorize actions which are

95 consistent with constitutional or statutory law, or with final orders of those courts of competent
96 jurisdiction to which the Legislature is subject:

97 (1) To authorize the Governor to enforce all laws and rules relating to the provision of
98 emergency services and to assume direct operational control of any or all emergency service
99 entities and personnel in the state;

100 (2) To authorize the Governor to sell, lend, lease, give, or transfer property, to make
101 purchases, deliver materials or perform functions relating to emergency services on terms and
102 conditions he or she prescribes without regard to the limitations of any existing law or being
103 required to account to the State Treasurer for any funds received for the property;

104 (3) To authorize the Governor to procure materials and facilities for emergency services by
105 purchase, condemnation under the provisions of §54-1-1 *et seq.*, or seizure pending institution of
106 condemnation proceedings within 30 days from the seizing thereof and to construct, lease,
107 transport, store, maintain, renovate, or distribute the materials and facilities. Compensation for the
108 procured property shall be made in the manner provided in §54-1-1 *et seq.*;

109 (4) To authorize the Governor to obtain the services of necessary personnel required
110 during the emergency or in preparation for the emergency, and to compensate such personnel for
111 their services from the Governor's Contingent Fund or other funds available to him or her;

112 (5) To authorize the Governor to provide and compel the evacuation of all or part of the
113 population from any stricken or threatened area within the state and to take steps that are
114 necessary for the receipt and care of the evacuees;

115 (6) To control ingress and egress into or out of a disaster area or other area subject to a
116 state of emergency or state of preparedness, as well as the movement of persons and occupancy
117 of premises within the area;

118 (7) To suspend the provisions of any statute prescribing the procedures for the conduct of
119 state business or the orders, or rules of any state agency, if strict compliance therewith would in
120 any way prevent, hinder, or delay necessary action in coping with the emergency: *Provided, That*

121 nothing in this subdivision may be construed as granting the Legislature or the Governor the power
122 to suspend any provision of this section;

123 (8) To authorize the Governor to use available resources of the state and of its political
124 subdivisions that are reasonably necessary to cope with the emergency or to prepare for the
125 emergency;

126 (9) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages,
127 explosives, and combustibles: *Provided*, That explosives and combustibles do not include
128 firearms, ammunition, components of ammunition, or ammunition-reloading equipment and
129 supplies;

130 (10) To make provision for the availability and use of temporary emergency housing; and

131 (11) To perform and exercise other functions, powers and duties that are necessary to
132 promote and secure the safety and protection of the civilian population.

133 ~~(h)~~ (i) The declaration of a state of preparedness has the same effect as a declaration of a
134 state of emergency for the purposes of the Emergency Management Assistance Compact
135 established in §15-5-22 of this code, and the Statewide Mutual Aid System set forth in §15-5-28 of
136 this code.

137 ~~(i)~~ (j) The powers granted under this section do not authorize any action that would violate
138 the prohibitions of §15-5-19a of this code.

139 ~~(j)~~ (k) During any state of preparedness or state of emergency proclaimed at any time, an
140 executive order of the Governor may not:

141 (1) Close churches or other houses of worship or prevent their operation in any manner
142 that is more restrictive than the least restrictive provisions in place for the operation of the most
143 essential facilities of government or private enterprise.

144 (2) Suspend or limit the lawful sale, lawful transfer, or lawful transportation of firearms,
145 ammunition, components of ammunition, or ammunition-reloading equipment and supplies; or

146 (3) Except as authorized by the provisions of this article, interfere with, or impair the

147 operation of the news media.

148 ~~(k)~~ (l) Unless expressly authorized by an executive order of the Governor or a proclamation
149 from the Legislature, a municipal, county, or state health officer, under color of a duly proclaimed
150 state of emergency or state of preparedness, shall not take any enforcement action which is not
151 authorized by statute.

152 ~~(l)~~ (m) Any suit filed challenging an executive order issued relating to a state of
153 preparedness or emergency pursuant to the authority granted in this section shall be limited to a
154 petition for a writ of prohibition or mandamus pursuant to Rule 16 of the Rules of the West Virginia
155 Supreme Court of Appeals. The provisions of §55-17-3 of this code are not applicable to any suit
156 filed challenging an executive order issued pursuant to this section.

NOTE: The purpose of this bill is to require a full legislative vote regarding all Gubernatorial declarations of a state of preparedness or 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.