

No. 1988-87

AN ACT

SB 1167

Amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, authorizing the Governor to utilize public or quasi-public property; changing the organization of the council; expanding powers and duties; ratifying reorganization structure; further regulating authority of political subdivisions; expanding compensation for injuries; creating the office of Pennsylvania State Fire Commissioner; providing for the Pennsylvania State Fire Academy and the Pennsylvania Volunteer Loan Assistance Program; and reestablishing the Pennsylvania Emergency Management Agency.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 7301(f)(4) and 7312(a), (d), (e) and (h) of Title 35 of the Pennsylvania Consolidated Statutes are amended to read:

§ 7301. General authority of Governor.

* * *

(f) Additional powers.—In addition to any other powers conferred upon the Governor by law, the Governor may:

* * *

(4) Subject to any applicable requirements for compensation under section 7313(10) (relating to powers and duties), commandeer or utilize any private, *public or quasi-public* property if necessary to cope with the disaster emergency.

* * *

§ 7312. Organization.

This agency shall consist of and be organized substantially as follows:

(a) Council.—Primary responsibility for overall policy and direction of a Statewide civil defense and disaster program and response capability of the type hereinafter prescribed shall be vested in a body legally known as the Pennsylvania Emergency Management Council, which shall be composed of: the Governor, Lieutenant Governor, Adjutant General, Secretary of Health, Attorney General, Secretary of Community Affairs, Secretary of Environmental Resources, Secretary of Transportation, Secretary of Agriculture, Secretary of Public Welfare, Commissioner of the Pennsylvania State Police, Chairman of the Public Utility Commission, Speaker of the House of Representatives, President pro tempore of the Senate, Minority Leader of the Senate and Minority Leader of the House of Representatives. The Speaker of the House of Representatives, President pro tempore of the Senate, Minority Leader of the Senate and Minority Leader of the House of Representatives may authorize a member of their respective Houses of the General Assembly to serve in their stead. *The Governor may authorize up to two representatives of business and industry, up to two representatives of labor, up to two public members at large and one representative respectively*

of the Pennsylvania State Association of County Commissioners, the Pennsylvania State Association of Township Commissioners, the Pennsylvania State Association of Township Supervisors, the Pennsylvania League of Cities and the Pennsylvania State Association of Boroughs to be nonvoting members of the council. The Governor may designate a member to serve as chairman. Five members shall constitute a quorum.

* * *

(d) **Emergency meetings.**—In the event of attack or disaster situations determined actually or likely to be of such nature, magnitude, severity or duration as to necessitate extensive or extraordinary deployment and use of Commonwealth resources for emergency purposes, the chairman shall, within not more than [48] 72 hours immediately following such determination, call the council into emergency session, for consideration of actions taken or to be taken. In the absence of the chairman, notice of such meetings shall be disseminated to the membership by the State director.

(e) **State director.**—To supervise the work and activities comprising the State Civil Defense and Disaster Program, the **[council shall employ] Governor shall appoint** an individual to act, on a full-time basis, as director of the agency. The director **[shall serve at the pleasure of the council,]** shall perform all such fiscal, planning, administrative, operational and other duties as may be assigned to him by the council and shall act as the chairman's principal assistant in civil defense and disaster matters. The director *or the director's designee* is also the State coordinating officer responsible to coordinate and supervise the Commonwealth and local disaster response effort following a presidential declaration of an emergency or a major disaster.

* * *

(h) **[Weather] Emergency communications.**—The agency shall maintain an integrated communications capability designed to provide to all areas and counties weather advisories, river forecasts, warnings, and direction and control of all emergency preparedness functions within the Commonwealth. *The agency shall coordinate the Commonwealth's emergency communication systems, sharing of information and weather emergency notification among the National Weather Service, contiguous State emergency management offices, local coordinators of emergency management, the Pennsylvania State Police, local police departments, private relief associations and other appropriate organizations. Additionally, the agency shall establish the sole Statewide telephone number that persons, including county and municipal emergency management personnel, may use to report incidences of radioactive and hazardous materials and other disaster emergencies.*

* * *

Section 2. Section 7313(6), (19) and (20) of Title 35 are amended and the section is amended by adding a paragraph to read:

§ 7313. Powers and duties.

The agency shall have the following powers and duties:

* * *

(6) To supply appropriate Commonwealth and local agencies and officials and the general public with precautionary notices, watches and warn-

ings relating to actual and potential disasters and to provide a flow of official information and instructions to the general public through all means available before, during and after an emergency. *The agency shall implement a program of integrated flood warning systems among political subdivisions. The agency shall establish coordinated flood notification and early warning systems along prescribed major river basins and selected tributaries thereof in this Commonwealth.*

* * *

(19) To provide, from its own stockpiles or other sources, emergency operational equipment, materials and supplies required and available for essential supplementation of those owned, acquired and used by Commonwealth, county and local departments and agencies for attack and disaster operations. *The agency shall establish two regional emergency supply warehouses. One shall be located in the western part of this Commonwealth, and one shall be located in the eastern part of this Commonwealth.*

(20) For [a period of 30 days or immediately after] *the period during which* an emergency is declared by the Governor, to incur obligations for or purchase such materials and supplies as may be necessary to combat a disaster, protect the health and safety of persons and property and provide emergency assistance to victims of a disaster without complying with formal bidding or other time-consuming contract procedures.

(21) *To require hydroelectric generating facilities and dam operators to do all of the following:*

- (i) *Provide minimum competency testing for their operators.*
- (ii) *Submit plans for flood notification and warning.*

Section 3. Title 35 is amended by adding sections to read:

§ 7315. *Pennsylvania State Fire Commissioner.*

(a) *Office within agency.—Within the agency there shall be a Pennsylvania State Fire Commissioner to coordinate the activities of State and local community interests engaged in fire prevention and control activities; to serve as a focal point for information relative to fires, property damage, injuries and the loss of life; to disseminate, through periodic reports, information about fire prevention efforts and fire control techniques; to develop and participate in a program of public information and education designed to create a public awareness of the incidence and the ravages of fire and methods the individual can take to prevent them and to minimize loss when they occur; and to serve as a central point to support local interests and their efforts in all matters pertinent to fire prevention and control.*

(b) *Transfer.—The agency shall use, employ and expend in connection with the functions, powers and duties in subsection (a) for the position of the Pennsylvania State Fire Commissioner, contract obligations, if any, records, files, property, supplies and equipment now being used or held in connection with such functions, powers and duties, and the unexpended balance of appropriations, allocations, Federal grants and other funds available or to be made available for use in connection with such functions, powers and duties transmitted by Reorganization Plan No.5 of 1981 (P.L.612).*

(c) *Qualifications and appointment.*—*The Pennsylvania State Fire Commissioner shall be a person who, by reason of training, experience and attainment, is qualified to coordinate fire prevention and control activities. The commissioner shall be appointed by the Governor after consultation with the fire service community. The commissioner shall serve as a deputy director of the agency.*

§ 7316. *Pennsylvania State Fire Academy.*

(a) *Creation.*—*There is hereby created within the agency a Pennsylvania State Fire Academy, which shall be under the operational control of the Pennsylvania State Fire Commissioner. The agency shall administratively provide for the erection or construction, the furnishing, the staffing and the equipping of the buildings and structures through the Department of General Services and the leasing thereof by the Commonwealth for the use and support of the academy.*

(b) *Transfer.*—*There are hereby transferred to the agency, to be used, employed and expended in connection with the functions, powers and duties, personnel, contract obligations, if any, records, files, property, supplies and equipment now being used or held in connection with such functions, powers and duties, and the unexpended balance of appropriations, allocations, Federal grants and other funds available or to be made available for use in connection with such functions, powers and duties as transmitted by Reorganization Plan No. 6 of 1981 (P.L. 613).*

(c) *Hazardous chemical and radioactive material training.*—*The Pennsylvania State Fire Academy shall serve as the resident Commonwealth government center for hazardous chemical and radioactive material training. Resident and field staffing shall be added to the staff of the Pennsylvania State Fire Academy for this purpose.*

(d) *Firefighter training and certification.*—*A Statewide firefighter training program shall be implemented by the Pennsylvania State Fire Commissioner to educate the fire service community about the importance of firefighter health and safety. This program shall include measures designed to increase the mobility of training courses throughout this Commonwealth, to enhance firefighter accessibility to training course offerings, and to improve and expand training for and response capability to emergencies, with emphasis on hazardous materials incidents. The program shall also include implementation of a firefighter certification program in accordance with parameters developed by the commissioner, consistent with established standards. The acquisition of physical resources to enhance Statewide capability will be coordinated by the commissioner.*

§ 7317. *Pennsylvania Volunteer Loan Assistance Program.*

(a) *Creation.*—*Within the agency there shall be a loan assistance program, which shall be implemented by the Pennsylvania State Fire Commissioner, for volunteer agencies, known as the Pennsylvania Volunteer Loan Assistance Program, which shall make loans to volunteer fire companies, volunteer ambulance services, hazardous materials units¹ and volunteer rescue squads for the purpose of establishing or modernizing facilities to house firefighting apparatus equipment, ambulances and rescue vehicles,*

¹ “units, volunteer fire companies” in enrolled bill.

and for purchasing new firefighting apparatus equipment, ambulances, rescue vehicles and protective and communications equipment, and any other accessory equipment necessary for the proper performance of such organizations' duties, as recognized by the community.

(b) *Transfer.*—There are hereby transferred to the agency, to be used, employed and expended in connection with the functions, powers and duties authorized in subsection (a), personnel, contractual obligations, if any, mortgages, liens, encumbrances and any other secured interests, records, files, property, supplies and equipment now being used or held in connection with such functions, powers and duties, and the unexpended balance of appropriations, allocations and other funds available or to be made available for use in connection with such functions, powers and duties, as transmitted by Reorganization Plan No. 7 of 1981 (P.L. 615).

§ 7318. *Fire Safety Advisory Committee.*

(a) *Creation.*—There is hereby created a Fire Safety Advisory Committee to the agency. The committee shall consist of nine members: the director of the Pennsylvania Emergency Management Agency, *ex officio*; the Pennsylvania State Fire Commissioner, who shall serve as chairman; two paid firemen; one member of the public to be appointed by the Governor; and four volunteer firemen, one each to be appointed by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President pro tempore of the Senate and the Minority Leader of the Senate. Members of the committee shall serve at the pleasure of their appointing authority. The committee shall advise the Pennsylvania State Fire Commissioner on matters pertaining to the operation of the Pennsylvania State Fire Academy and any such other matters as the commissioner may request.

(b) *Expenses.*—Members of the committee shall receive reimbursement for reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

§ 7319. *Appropriations.*

All appropriations for the Pennsylvania State Fire Commissioner shall be by a separate line item in the General Appropriation Act.

Section 4. Section 7501(d) of Title 35 is amended to read:

§ 7501. General authority of political subdivisions.

* * *

(d) *Temporary suspension of formal requirements.*—Each political subdivision included in a declaration of disaster emergency declared by either the Governor or the governing body of the political subdivision affected by the disaster emergency is authorized [pursuant to section 7301(c) (relating to general authority of Governor)] to exercise the powers vested under this section in the light of the exigencies of the emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the

purchase of supplies and materials, the levying of taxes and the appropriation and expenditure of public funds.

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Section 5. The introductory paragraph of section 7503 of Title 35 is amended and the section is amended by adding paragraphs to read:

§ 7503. Powers and duties of political subdivisions.

Each political subdivision shall, *either individually or pursuant to the provisions of the act of July 12, 1972 (P.L. 762, No. 180), referred to as the Intergovernmental Cooperation Law, adopt an Intergovernmental Cooperation agreement with other political subdivisions to:*

* * *

(10) *Participate in all tests, drills and exercises, including remedial drills and exercises, scheduled by the agency or by the Federal Government.*

(11) *Participate in the program of integrated flood warning systems under section 7313(6) (relating to powers and duties).*

Section 6. Section 7701 of Title 35 is amended by adding subsections to read:

§ 7701. Duties concerning disaster prevention.

* * *

(d) *Schools.—Public-funded universities, colleges, and elementary and secondary schools shall be made available to local, county and State officials for emergency planning and exercise purposes and actual service as mass-care facilities in the event of an emergency evacuation.*

(e) *Vehicles.—School bus and transportation vehicles owned or leased by universities, colleges and school districts shall be made available to local, county and State officials for emergency planning and exercise purposes and actual service in the event of an emergency evacuation.*

(f) *Disaster drills.—Annually, as coordinated by the Pennsylvania Emergency Management Agency with local emergency management agencies, schools shall conduct at least one tornado or other disaster drill. All schools shall have disaster response plans.*

(g) *Plans.—Every school district, in cooperation with the local Emergency Management Agency, shall develop and implement emergency preparedness plans.*

Section 7. Section 7706(a) of Title 35 is amended to read:

§ 7706. Compensation for accidental injury.

(a) *Benefits.—All duly enrolled emergency management volunteers, and such other volunteers as the agency shall by regulation qualify, who are not eligible to receive benefits under the Workmen's Compensation Laws shall be entitled, except during a state of war or period of armed conflict within the continental limits of the United States, to the following benefits relating to injuries sustained while actually engaged in emergency management activities and services or in or en route to and from emergency management tests, drills, exercises or operations authorized by the Pennsylvania Emergency Management Agency and carried out in accordance with rules and orders promulgated and adopted by the agency:*

(1) A sum of [~~\$2,500~~] ~~\$20,000~~ for accidental injury directly causing or leading to death.

(2) A sum not exceeding [~~\$1,500~~] ~~\$15,000~~ for reimbursement for medical and hospital expenses associated with accidental injury.

(3) Weekly payments of [~~\$50~~] ~~\$200~~, *not to exceed six months in duration*, beginning on the eighth day of disability directly arising from accidental injury rendering the individual totally incapable of following his normal gainful pursuits.

* * *

Section 8. The Pennsylvania State Fire Commissioner in office on the effective date of this act shall continue to perform the powers and duties of that office, and no Senate confirmation shall be required.

Section 9. The State Director in office on the effective date of this act shall continue to perform the powers and duties of that office, and no Senate confirmation shall be required.

Section 10. Reorganization Plan No.5 of 1981 (P.L.612), Reorganization Plan No.6 of 1981 (P.L.613) and Reorganization Plan No.7 of 1981 (P.L.615) are hereby rescinded insofar as they conflict with the provisions of this act.

Section 11. This act, with respect to the Pennsylvania Emergency Management Agency, constitutes the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act, for a period of five years.

Section 12. This act shall take effect January 1, 1988, or immediately, whichever is later.

APPROVED—The 13th day of July, A. D. 1988.

ROBERT P. CASEY