

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4275

FISCAL
NOTE

BY DELEGATE WESTFALL

[Introduced January 19, 2022; Referred to the
Committee on Veterans' Affairs and Homeland
Security then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §15-5D-1, §15-5D-2, §15-5D-3, §15-5D-4, §15-5D-5, §15-5D-6, §15-5D-7,
3 and §15-5D-8, all relating to creating a County Emergency Fund and County Emergency
4 Board; making legislative findings and declaring the legislative purpose of the act; defining
5 terms; establishing the West Virginia County Emergency Fund; establishing the West
6 Virginia County Emergency Board and specifying its powers; providing for meetings and
7 procedures for meetings; outlining an application process and limits to the scope of
8 applications; requiring matching funding from local government entities; establishing
9 restrictions on allowable expenditures from fund distributions and handling of distributions
10 to local governments; and authorizing the proposal of legislative rules and the
11 promulgation of procedural and interpretive rules.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5D. COUNTY EMERGENCY FUND.

§15-5D-1. Legislative findings and purpose.

1 The Legislature hereby finds that natural disasters, acts of God, and other emergency
2 events may significantly affect the public safety, economy, revenue, health, and welfare in local
3 communities. At times, such events may have severe consequences at a local level and may
4 constitute a major disaster in the affected area even though the scope and scale of such events
5 may not trigger the resources and recovery effects available under federal law. In these
6 circumstances, the State of West Virginia has a vital interest in sustaining the public safety,
7 economy, health, and welfare of the people in these affected areas. The Legislature finds that it
8 is necessary to ensure the infrastructure recovery in any county due to this type of emergency
9 event. Therefore, when an emergency event occurs, and assessed local damages do not meet,
10 or rise to, the requirements for a Presidential Declaration of a Disaster or a state Declaration of
11 Emergency, alternative funding may be available for recovery and restoration pursuant this article.

§15-5D-2. Definitions.

1 As used in this article:

2 “Emergency circumstances” means the totality of consequences of an emergency event;

3 “Emergency event” means a disaster, act of God, or an emergency situation resulting from
4 natural or man-made causes, in which the functioning of critical public services, or public safety,
5 security, or health is threatened or adversely impacted.

§15-5D-3. Establishment of County Emergency Fund.

1 There is hereby created in the State Treasury a special fund known as the “West Virginia
2 County Emergency Fund” to be administered in accordance with this article. The money for this
3 fund may be appropriated by the Legislature by direct appropriation or by legislative
4 reappropriation from the Revenue Shortfall Reserve Fund, established pursuant to §11B-2-20 of
5 this code, as surplus moneys become available in any year. All money remaining in the fund at
6 the close of a fiscal year, up to a total balance of \$20 million, shall be carried forward for use in
7 the next fiscal year, unless explicitly reappropriated by the Legislature.

§15-5D-4. County Emergency Board; composition; purpose and powers.

1 (a) The West Virginia County Emergency Board is hereby established. The board shall
2 consist of the Governor or his or her designee, who shall serve as chair, the State Treasurer or
3 his or her designee, the State Auditor or his or her designee, and two designees from the West
4 Virginia County Commission Association. In addition, the Senate President and the Speaker of
5 the House of Delegates may each delegate one member of their respective houses to attend
6 meetings of the board as nonvoting observers on behalf of the Legislature.

7 (b) The function of the County Emergency Board is to receive and review applications
8 from county governments for disbursements from the West Virginia Count Emergency Fund for
9 recovery, restoration, and damage mitigation following an emergency event and to authorize
10 disbursements from the fund when warranted.

11 (c) In order to perform its function, the County Emergency Board shall:

12 (1) Hold meetings, take testimony from witnesses, and administer oaths for the purpose

13 of taking sworn testimony;

14 (2) Establish forms and procedures for making application for funds from the board,
15 consistent with its authority to adopt procedural and interpretive rules pursuant to §15-5D-8 of this
16 code;

17 (3) Receive and rule on applications for disbursements submitted by the county
18 commission of any county or part of any county having suffered adverse impacts from any natural
19 or man-made emergency;

20 (4) Maintain a record of all proceedings of the board;

21 (5) Make recommendations to the Legislature for maintaining an adequate balance in the
22 County Emergency Fund to meet anticipated needs of the counties; and

23 (6) Take all other actions reasonably necessary and proper to effectuate the purposes of
24 this article.

25 (d) In addition to the aforesaid duties, the County Emergency Board may:

26 (1) Hire staff, or utilize existing staff from the respective offices of the Governor, Treasurer,
27 or State Auditor, to assist the board in administering the application review process and otherwise
28 assist the board in fulfilling its duties;

29 (2) Make and execute contracts, leases, releases, and other instruments necessary or
30 convenient for the exercise of its power;

31 (3) Enter into agreements or other transactions with any federal or state agency, political
32 subdivision, or person; and

33 (4) Provide for the deposit of any funds or assets of the West Virginia County Emergency
34 Fund with the state Board of Investments for investment.

§15-5D-5. Meetings of the County Emergency Board.

1 (a) Meetings of the board shall be called at the request of the Governor:

2 (1) To consider applications from counties for funding to respond to emergency events
3 that are not otherwise addressed through state or federal funding;

4 (2) To develop and establish forms and procedures to apply for release of funds and to
5 carry out transfers of funds authorized for release;

6 (3) To consider and propose rules for legislative approval; and

7 (4) To consider contracts, agreements, or other transactions with any federal or state
8 agency, political subdivision, or person, that may be necessary to the function of the board and
9 administration of its duties.

10 (b) A quorum to conduct business of the board shall consist of three members.

11 (c) The board shall not review or approve any applications for the release of funds until
12 the board has first promulgated procedural rules for application submittal and review, and then
13 distributed copies of those rules to all the county commissions of this state.

§15-5D-6. Applications by counties; municipal requests; exclusion of state resources.

1 (a) A county commission may initiate an application for funding from the County
2 Emergency Fund by adopting a resolution of county emergency, describing the event resulting in
3 the emergency, the geographical areas affected, and any political subdivisions including, but not
4 limited to, municipalities, public water authorities, and sanitary districts that will need to expend
5 public funds to repair, recover, and mitigate the damage from the emergency event. The
6 resolution shall also include a statement that there has been no formal declaration by the
7 Governor or the President of the United States of a state of emergency for this event.

8 (b) The county commission making application for release of money from the fund shall,
9 using forms designated by the County Emergency Board, submit an application which, at a
10 minimum, contains the following elements:

11 (1) A copy of the resolution of emergency approved by the county commission;

12 (2) An assessment of the damage to property and infrastructure, separated into the
13 following categories:

14 (A) Damage to public property;

15 (B) Damage to residential property;

- 16 (C) Damage to commercial, industrial, and mercantile property;
17 (D) Damage to health care facilities;
18 (E) Damage to places of assembly;
19 (F) Damage to infrastructure facilities, including, but not limited to, local roads and streets,
20 traffic control structures and devices; electric power distribution elements and structures, voice
21 and data transmission elements and structures, water and sewer systems, drainage systems, and
22 other structures and systems necessary for adequate, effective, and efficient communication and
23 commerce;
- 24 (3) Total number of structures damaged or destroyed;
25 (4) Needs for debris removal;
26 (5) Sanitary and public health measures needed or undertaken;
27 (6) Estimated total cost for recovery and rehabilitation; and
28 (7) The source or sources and the amount of available matching funds.
- 29 (c) Municipal governments and public sanitary districts seeking the release of money from
30 the County Emergency Fund for local emergency events shall proceed through their local county
31 commission, which may make application on their behalf under the procedures specified in this
32 section.
- 33 (d) Applications for disbursements from the County Emergency Fund shall require
34 contribution (matching) funding from the local government entity upon whose behalf the
35 application is submitted. The local government entity shall provide 20 percent of the overall cost
36 in contribution funding, which may include in-kind payments or contributions. In-kind contributions
37 include, but are not limited to, salary, mileage expenses, and time for use of equipment pursuant
38 to the Federal Emergency Management Agency methods for calculating reimbursement costs.
- 39 (e) No application may request money from the County Emergency Fund for the use of
40 National Guard resources or public educational facilities; however, the Adjutant General or the
41 State Superintendent of Schools may petition the Governor or the Legislature for funding under

42 other programs or from other sources.

43 (f) No application may request money from the County Emergency Fund for repair,
44 reconstruction, or mitigation of damage of roads in the state highway system, but money from this
45 fund may be used to repair, reconstruct, or mitigate damage to streets or roads ordinarily
46 maintained with county or municipal funds.

47 (g) No provision of this article, or the submission of an application pursuant to the
48 provisions of this article, shall preclude a county commission or other political subdivision from
49 petitioning the Governor or the Legislature for any other funds or measures for relief, recovery,
50 rehabilitation, or mitigation of damage from an emergency event. However, if the Governor or the
51 President of the United States declares a state of emergency based upon the same emergency
52 event, then the application for release of funds submitted under this section shall be suspended.

**§15-5D-7. Authorized expenditures; restrictions on conversion of money received; time
limit.**

1 (a) Money received through authorization from the County Emergency Board may only be
2 used for the following expenditures:

3 (1) Removal of debris from public property or public spaces and removal of debris blocking
4 access to critical infrastructure;

5 (2) Demolition of structures and hauling demolished materials for disposal;

6 (3) Repairs, rehabilitation, or replacement of public buildings, structures, signage, and

7 (4) Repairs, rehabilitation, or replacement of sewer or waste water structures, guides, and
8 facilities, above-ground and below-ground;

9 (5) Repairs, rehabilitation, or replacement of water supply structures and facilities;

10 (6) Removal or mitigation of any condition on any property, public or private, posing an
11 imminent threat to public health or safety;

12 (7) Provision of all emergency functions, other than functions for which military forces are
13 primarily responsible, to protect, respond, and recover, to prevent, detect, deter, and mitigate, to

14 minimize and repair injury and damage resulting from disasters or other event caused by flooding,
15 terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions
16 include, without limitation, critical infrastructure services, firefighting services, police services,
17 medical and health services, communications, emergency telecommunications, radiological,
18 chemical, and other special weapons defense, evacuation of persons from stricken areas,
19 emergency welfare services, emergency transportation, existing or properly assigned functions
20 of plant protection, temporary restoration of public utility services and other functions related to
21 the health, safety, and welfare of the citizens of this state, together with all other activities
22 necessary or incidental to the preparation for and carrying out of these functions;

23 (8) Repairs, rehabilitation, replacement, or emergency acquisition of equipment or tangible
24 personal property owned or operated by any political subdivision or nonprofit corporation and
25 used within this state to provide any essential service to the general public; and

26 (9) Repairs, rehabilitation, or replacement of systems and assets, whether physical or
27 virtual, so vital to the community that the incapacity or destruction of such systems and assets
28 would have a debilitating impact on security of the public, economic security, public health or
29 safety, or any combination of those matters.

30 (b) Money received through authorization from the County Emergency Board may not be
31 invested in, or converted into, any form of investment account or instrument by the receiving
32 county commission or political subdivision.

33 (c) Money received through authorization from the County Emergency Board shall be
34 expended or encumbered by contract within one year of its receipt. Any unspent or unencumbered
35 amounts shall be returned to the County Emergency Fund at the conclusion of one year's time by
36 the receiving county commission or political subdivision.

§15-5D-8. Rule-making.

1 The West Virginia County Emergency Board is authorized to propose legislative rules for
2 legislative consideration and also to promulgate procedural and interpretative rules, pursuant to

- 3 the provisions of §29A-3-1 et seq. of this code, as may be necessary to carry out the provisions
- 4 of this article.

NOTE: The purpose of this bill is to create a state fund for use of counties and other local government entities to pay for expenses resulting from a disaster or emergency condition that is not of sufficient scale to warrant a state or federal declaration 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.