

CHAPTER 99

(HB 405)

AN ACT relating to emergency services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "law enforcement agency" means a city, county, consolidated local government, urban-county government, charter county government, unified local government, or state law enforcement agency, and includes a sheriff's office.*
- (2) *(a) Law enforcement agencies may, as a condition of employment, require a newly appointed law enforcement telecommunicator to enter into an employment contract for a period of no longer than three (3) years from the date of graduation from the Department of Criminal Justice Training, or other training approved by the Kentucky Law Enforcement Council.*
 - (b) *If a law enforcement telecommunicator who has entered into a contract authorized under this section begins employment as a law enforcement telecommunicator with another law enforcement agency during the contractual period, that law enforcement agency or the law enforcement telecommunicator shall reimburse the law enforcement agency that initially hired the law enforcement telecommunicator for the actual costs incurred and expended which are associated with the initial hiring of that telecommunicator, including but not limited to the application process, training costs, equipment costs, and salary. The law enforcement agency that initially hired the law enforcement telecommunicator shall be reimbursed for the costs from the time of the law enforcement telecommunicator's initial application until graduation from the Department of Criminal Justice Training, or other training approved by the Kentucky Law Enforcement Council.*
 - (c) *The amount of reimbursement authorized by paragraph (b) of this subsection shall be prorated based upon the percentage of time that the law enforcement telecommunicator completed his or her employment contract.*

➔Section 2. KRS 39A.020 is amended to read as follows:

As used in KRS Chapters 39A to 39F, unless the context requires otherwise:

- (1) "Adjutant General" means the executive head of the Department of Military Affairs vested with general direction and control authority for the department and the division of emergency management;
- (2) "Catastrophe" means a disaster or series of concurrent disasters which adversely affect the entire Commonwealth of Kentucky or a major geographical portion thereof;
- (3) "*Chief executive officer*" means a:
 - (a) *County judge/executive of a county;*
 - (b) *Mayor of a consolidated local government;*
 - (c) *Mayor of an urban-county government;*
 - (d) *Chief executive officer of a charter county government;*
 - (e) *Chief executive officer of a unified local government; or*
 - (f) *Mayor of a city;*
- (4) "Comprehensive emergency management program" means the public safety program developed, organized, implemented, administered, maintained, and coordinated by the Division of Emergency Management and local emergency management agencies created pursuant to the provisions of KRS Chapters 39A to 39F, to assess, mitigate, prepare for, respond to, or recover from, an emergency, declared emergency, disaster, or catastrophe, or threat of any of those, as contemplated in KRS 39A.010 or as defined in this section;
- (5)~~(4)~~ "Coordination" means having and exercising primary state or local executive branch oversight for the purpose of organizing, planning, and implementing;

- ~~(6)(5)~~ **"County"** means a county, urban-county government, charter county government, consolidated local government, or unified local government;
- (7) "Declared emergency" means any incident or situation declared to be an emergency by executive order of the Governor, or a county judge/executive, or a mayor, or the chief executive of other local governments in the Commonwealth pursuant to the provisions of KRS Chapters 39A to 39F;
- ~~(8)(6)~~ "Director" means the director of the Division of Emergency Management of the Department of Military Affairs;
- ~~(9)(7)~~ "Disaster" means any incident or situation declared as such by executive order of the Governor, or the President of the United States, pursuant to federal law;
- ~~(10)(8)~~ "Disaster and emergency response" means the performance of all emergency functions, other than war-related functions for which military forces are primarily responsible, including, but not limited to: direction and control, incident command, or management; communications; fire protection services; police services; medical and health services; ambulance services; rescue; search and rescue or recovery; urban search and rescue; engineering; alerting and warning services; resource management; public works services; nuclear, chemical, biological, or other hazardous material or substance monitoring, containment, decontamination, neutralization, and disposal; emergency worker protection, site safety, site operations and response planning; evacuation of persons; emergency welfare services; emergency transportation; physical plant protection; temporary restoration of public utility services; emergency lighting and power services; emergency public information; incident investigation, hazards analysis, and damage assessment; and other functions related to effective reaction to a disaster or emergency or catastrophe, or the potential, threatened, or impending threat of any disaster or emergency or catastrophe, together with all other activities necessary or incidental to the preparation for and carrying out of the functions set out in this subsection;
- ~~(11)(9)~~ "Division" means the Division of Emergency Management of the Department of Military Affairs;
- ~~(12)(10)~~ "Emergency" means any incident or situation which poses a major threat to public safety so as to cause, or threaten to cause, loss of life, serious injury, significant damage to property, or major harm to public health or the environment and which a local emergency response agency determines is beyond its capabilities;
- ~~(13)(11)~~ "Integrated emergency management system" means the unified and multidisciplinary disaster and emergency response infrastructure developed in the Commonwealth, under the coordination of the division, using methods which align state or local administrative, organizational, and operational resources, to accomplish the mission, goals, and objectives of the comprehensive emergency management program of the Commonwealth;
- ~~(14)(12)~~ "Local disaster and emergency services organization" means that organization of public and private entities developed to carry out the multiagency disaster and emergency response of a city, county, urban-county or charter county pursuant to KRS Chapters 39A to 39F;
- ~~(15)(13)~~ "Local emergency management agency" means the agency created, operated, and maintained to coordinate the local comprehensive emergency management program and disaster and emergency response of a city, county, and urban-county or charter county government pursuant to KRS Chapters 39A to 39F;
- ~~(16)(14)~~ "Local emergency management director" or "Local director" means the executive head of the local emergency management agency, appointed pursuant to the provisions of KRS Chapters 39A to 39F;
- ~~(17)(15)~~ "State emergency management agency" means the Division of Emergency Management of the Department of Military Affairs; and
- ~~(18)(16)~~ "State emergency management director" means the director of the Division of Emergency Management.

➔Section 3. KRS 39B.010 is amended to read as follows:

- (1) Each city, county, urban-county or charter county government ***or counties acting jointly under the provisions of subsection (2)(b) of this section***, of this Commonwealth shall create, support, and maintain a local emergency management agency, which shall serve the public safety interest of the local government within the territorial boundaries of the city, ~~for~~ county, ***or counties*** where the agency is created. Each local emergency management agency shall develop, implement, and maintain a local comprehensive emergency management program, including a local emergency operations plan, in accordance with the provisions of KRS Chapters 39A to 39F. The local emergency management agency shall be an integral component of the statewide integrated emergency management system of this Commonwealth, and shall fully comply with all applicable provisions of KRS Chapters 39A to 39F, the comprehensive emergency management program requirements of

the Commonwealth, the provisions of the Kentucky Emergency Operations Plan, and all administrative regulations promulgated by the Division of Emergency Management.

- (2) (a) Each county government, and the urban-county, charter county, or city governments located within the territorial boundaries of a county, are encouraged to jointly create a single, unified local emergency management agency to serve all local governments collectively, and therefore may, in lieu of creating individual and separate local agencies, jointly create a single, unified local emergency management agency, provided the agency and its program:
1. ~~((a))~~ Fully comply with all the provisions of KRS Chapters 39A to 39F;
 2. ~~((b))~~ Comply with the Interlocal Cooperation Act or locally adopted memorandums of agreement, as necessary and appropriate; and
 3. ~~((c))~~ Are determined to be in compliance with all requirements of KRS Chapters 39A to 39F by the director of the Division of Emergency Management.
- (b) *Two (2) or more contiguous county governments, including or excluding the cities within their jurisdictions, may jointly create a single, unified local emergency management agency to serve the counties and participating cities within those counties collectively, and therefore may, in lieu of creating individual and separate local agencies, jointly create a single, unified local emergency management agency, provided the agency and its program meet the requirements set out in subparagraphs 1. to 3. of paragraph (a) of this subsection.*
- (3) The local emergency management agency shall be an organizational unit of the executive branch of city, county, ~~and~~ urban-county, ~~or~~ charter county government, **or counties acting jointly under the provisions of subsection (2)(b) of this section** and shall have primary jurisdiction, responsibility, and authority for all matters pertaining to the local comprehensive emergency management program and, under the general supervision of the local emergency management director, shall serve as a direct function of the office of county judge/executive or mayor. **In the case of counties acting jointly pursuant to this section, the supervision of the agency shall be set out by agreement or ordinance approved by the legislative body of each county.** In accordance with the policies of the state-local finance officer, a separate emergency management agency fund account shall be designated and included in the city, county, and urban-county or charter county budget ledgers, and all financial matters of a local emergency management agency, involving funds provided through the Division of Emergency Management, shall be handled through the county, urban-county, or charter county treasury and financial system.
- (4) City, county, and urban-county or charter county governments may use the term "emergency management" in a manner or form appropriate to constitute and designate the official name of the local emergency management agency established pursuant to this chapter, except for any use of the term "Division of Emergency Management" specified to constitute and designate the official name of the state emergency management agency pursuant to KRS 39A.030. The term "emergency management" may be used in a manner or form appropriate to constitute and designate the official name of a local emergency management council, or the statewide association of emergency management agencies or personnel, but shall not be utilized by, assigned to, or otherwise specified by any local unit, agency, or department, or any political subdivision of the Commonwealth in any manner or form to constitute or designate the official name of the local unit, agency, or department, or political subdivision, except as authorized in this subsection.
- (5) All local emergency management agencies or local disaster and emergency services organizations in the Commonwealth, and the local directors, and members of each, shall, for all purposes, be under the direction of the director of the division, and of the Governor when the latter deems that action necessary.

➔Section 4. KRS 39B.020 is amended to read as follows:

- (1) The county judge/executive of each county, the mayor of each city, consolidated local government, or urban-county government, or the chief executive of other local government, within thirty (30) days of assuming office following their election, shall appoint a local emergency management director who meets all qualifications criteria pursuant to KRS Chapters 39A to 39F, and shall immediately notify the director of the Division of Emergency Management of the appointment.
- (2) Except in a county containing a consolidated local government, in lieu of appointing a separate local emergency management director for each jurisdiction, the county judge/executive of a county and mayors of cities or urban-county governments, or the chief executive of other local government located within the

territorial boundaries of the same county, *or two (2) or more counties acting jointly under the provisions of Section 3 of this Act* may jointly appoint a single local emergency management director who meets all the qualifications criteria pursuant to KRS Chapters 39A to 39F. It is the policy of the Division of Emergency Management to encourage and support the joint appointment of a single local director in each territorial county, *or counties acting jointly*, of the Commonwealth. The duly appointed local emergency management director shall direct, control, and manage all the affairs of the local emergency management agency and comprehensive emergency management program of the jurisdictions wherein appointed.

- (3) A local emergency management director appointed under the provisions of subsection (1) or (2) of this section shall serve at the pleasure of the appointing authority, but shall serve not longer than four (4) years without reappointment and, in addition to any local requirements, shall meet the qualification requirements listed in this subsection:
- (a) The local director shall be a high school graduate with an additional three (3) years of experience in business administration, government planning, industrial or commercial planning, public safety, management of emergency services, or related community or governmental service. Management level experience may not be substituted for high school education. Education at an accredited college or university may be substituted for experience on a year-for-year basis.
 - (b) The local director shall be a resident of the Commonwealth of Kentucky and ~~at the~~ county served.
 - (c) The local director shall hold no partisan elective office, nor file for, seek, or campaign for any partisan elective office while holding the position of local emergency management director.
 - (d) The local director shall be routinely available to respond to emergency scenes, command posts, or emergency operations centers to coordinate emergency response of all local public and private agencies and organizations; to perform necessary administrative, planning, and organizational duties; to complete and submit required reports, records, emergency operations plans, and documents; to attend required training; and to attend meetings convened by the appointing authority or the area manager of the division.
 1. If the local director is also a full-time or part-time employee of the federal or state government, the local director shall have written authorization from the appropriate appointing authority to hold the position of local emergency management director and to fully comply with the provisions of paragraph (d) of this subsection. A copy of the written authorization shall be submitted to the division at the time of appointment.
 2. If the local director is also a full-time or part-time employee of a city, county, urban-county government, or charter county government in another capacity, that government shall enact an official city or county order or ordinance specifying that the individual appointed as local emergency management director shall fully comply with the provisions of paragraph (d) of this subsection. The order or ordinance shall also specify that the individual, when performing the duties of local emergency management director, shall relinquish all authorities and responsibilities associated with any other governmental employment and shall indicate another person, by name or position, to assume those authorities and responsibilities until such time as the local director shall cease to function as local emergency management director. A copy of the enacted order or ordinance shall be submitted to the division at the time of appointment. The city, county, urban-county government, or charter county government shall not seek reimbursement from the division for the local director's salary for any time spent in another capacity.
 3. If the local director is also a full-time or part-time employee in the private sector, the local director shall have a letter from each employer stating that the local director shall, without penalty or exception, be permitted to fully comply with the provisions of paragraph (d) of this subsection. A copy of the letter from each employer shall be submitted to the division at the time of appointment.
 4. If the local director is self-employed, the local director shall certify at the time of appointment, by letter to the director of the division, that the local director's schedule shall permit full compliance with the provisions of paragraph (d) of this subsection.
- (4) A local director whose salary has been reimbursed by the division prior to January 1, 1994, shall not be subject to the provisions of subsection (3)(a) of this section, so long as remaining continuously in that position for the appointing jurisdiction.

- (5) A local director whose salary is reimbursed in part or in full by the Division of Emergency Management pursuant to KRS 39C.010 and 39C.020, shall also meet any other requirements of KRS Chapters 39A to 39F and any requirements which may be imposed by the Federal Emergency Management Agency, or its successor.

→Section 5. KRS 39B.030 is amended to read as follows:

A local emergency management director, appointed pursuant to this chapter, shall have the following powers, authorities, rights, and duties:

- (1) To represent the county judge/executive, *or chief executive officers in the case of counties acting jointly under Section 3 of this Act*, or mayor on all matters pertaining to the comprehensive emergency management program and the disaster and emergency response of the county, *counties acting jointly under Section 3 of this Act*, urban-county, charter county, or the county *or counties acting jointly* and the cities therein, unless there is a local director appointed for a city in accordance with this chapter, who represents that city;
- (2) To be the executive head and chief administrative officer of the local emergency management agency, and to direct, control, supervise, and manage, the development, preparation, organization, administration, operation, implementation, and maintenance of the comprehensive emergency management program of the county, *counties acting jointly under Section 3 of this Act*, urban-county government, charter county government, or the county *or counties acting jointly* and the cities therein, and to coordinate all local disaster and emergency response, unless there is a local director appointed for a city in accordance with this chapter, who represents that city;
- (3) To develop and maintain a local emergency operations plan entitled "county emergency operations plan," *or "joint counties emergency operations plan,"* or "city emergency operations plan," or "city/county emergency operations plan," as appropriate, the provisions of which shall establish the organizational structure to be utilized by local government to manage disaster and emergency response, and set forth the policies, procedures, and guidelines for the coordination of all disaster and emergency response in the county and all the cities therein for an emergency, declared emergency, disaster, or catastrophe. The local emergency operations plan shall be developed consistent with the appropriate provisions of the Kentucky emergency operations plan, the provisions of KRS Chapters 39A to 39F, planning guidance issued by the division, and administrative regulations promulgated by the division. The local emergency operations plan shall be officially adopted by signed executive order of the county judge/executive or mayor, *or in the case of counties acting jointly under Section 3 of this Act, by all chief executive officers of the participating counties*. The executive order shall be filed with the office of the clerk for the local jurisdiction and a copy placed in the local emergency operations plan. A copy of the local emergency operations plan, and all revisions or updates thereto, shall be submitted by the local director to the Division of Emergency Management for concurrence review and reference. The local emergency operations plan shall be a component of the integrated emergency management system of the Commonwealth, and subject to the Kentucky Emergency Operations Plan, shall be the primary local strategic planning document governing the coordination of all disaster and emergency response in the county, *counties acting jointly under Section 3 of this Act*, city, or the county *or counties acting jointly* and the cities therein, and shall be applicable to, utilized by, and adhered to by, all local emergency response departments, agencies, and officials of the local disaster and emergency services organization in the county and the cities therein. The local emergency operations plan shall be updated not less than annually;
- (4) To establish and maintain a local disaster and emergency services organization in accordance with the local emergency operations plan, the Kentucky Emergency Operations Plan, and the provisions of KRS 39B.050;
- (5) To notify the county judge/executive, mayor, or executive authority of other local governments and the Division of Emergency Management immediately of the occurrence, or threatened or impending occurrence, of any emergency or disaster, and recommend any emergency actions which should be executed;
- (6) To be the chief advisor to, and the primary on-scene representative of, the county judge/executive, mayor, or executive authority of other local governments in the event of occurrence of any emergency, declared emergency, disaster, or catastrophe within the local jurisdiction;
- (7) (a) To respond and have full access to the scenes of an emergency, declared emergency, disaster, or catastrophe to immediately investigate, analyze, or assess the seriousness of all situations; to coordinate the establishment and operation of a local incident command or management system; to execute the local emergency operations plan, as appropriate; to activate the local emergency operations center or on-scene command post; to convene meetings, gather information, conduct briefings, and to notify the

division of on-going response actions; and fully expedite and coordinate the disaster and emergency response of all local public and private agencies, or to have a staff assistant do so;

- (b) At a declared emergency or declared disaster, at the direction of the county judge/executive or mayor, as appropriate, to take or direct immediate actions to protect public safety; however, this paragraph shall not preclude a local director from providing any assistance that he is requested to, and is able to, provide at any emergency.
- (8) To act as an official representative of the division in emergency situations when specifically requested by the director;
- (9) To report directly to the county judge/executive, mayor, or executive authority of other local governments, act in an official policy-making capacity when carrying out the duties of local emergency management director, and exercise full signatory authority for execution of all contracts, agreements, or other official documents pertaining to the administration and operation of the local emergency management agency and program;
- (10) To direct or supervise all paid or volunteer emergency management staff assistants or other local emergency management agency workers, and all operating units or personnel officially appointed and affiliated with the local disaster and emergency services organization pursuant to KRS 39B.070;
- (11) To prepare and submit regular or scheduled program activity reports to the area manager of the division and local chief executives;
- (12) To execute bond, if appropriate, in the amount determined by the appointing authorities;
- (13) Annually, by the first day of March, to prepare and submit a program budget request to the county judge/executive and mayor;
- (14) Annually, by the fifteenth day of July, to prepare and submit to the division a locally-approved, fiscal year program paper and budget request;
- (15) To perform all administrative, organizational, or operational tasks required by the provisions of this chapter, or administrative regulations, or program guidance pertaining thereto;
- (16) To be a registered member of the Kentucky Emergency Management Association or other professional emergency management organization; and
- (17) To carry out all other emergency management-related duties as required by KRS Chapters 39A to 39F, administrative regulations, or local orders or ordinances.

➔Section 6. KRS 39B.050 is amended to read as follows:

- (1) Each local emergency management director shall establish and maintain a local disaster and emergency services organization in accordance with a city or county or city/county *or joint counties* emergency operations plan required pursuant to KRS Chapters 39A to 39F. The local disaster and emergency services organization shall be comprised of the following members and participants:
 - (a) The county judge/executive, *or chief executive officers when counties are acting jointly under Section 3 of this Act*, and mayors, or the chief executive of other local governments;
 - (b) Elected legislative officials of the county and cities;
 - (c) The local emergency management director and all local emergency management agency staff members and workers, or emergency management agency-supervised operating units or personnel;
 - (d) All regular or volunteer public safety or emergency services department heads or agency chiefs in the cities or county;
 - (e) All regular or volunteer public safety or emergency services department or agency members in the cities or county;
 - (f) All districts, corporations, public agencies, groups, or political subdivisions of the state and special districts within the county or the cities thereof, which are organized under the laws of the Commonwealth to provide an emergency response service or related function in the interest of public safety; and
 - (g) All private sector personnel, agencies, organizations, companies, businesses, or individuals and citizens who agree to provide their assets, resources, talents, services, or supplies in aid to the local disaster and emergency services organization of the cities or county in accordance with the approved local

emergency operations plan of the city, county, *or counties acting jointly under Section 3 of this Act*, urban-county government, or charter county government.

- (2) The local disaster and emergency services organization shall have responsibility for the performance of all disaster and emergency response functions contemplated in KRS 39A.010, 39A.020, or 39A.030 and as listed or assigned in the city, county, *or counties acting jointly under Section 3 of this Act*, or city/county emergency operations plan, except that the Division of Forestry of the Energy and Environment Cabinet shall have primary responsibility for directing the implementation of all forest fire emergency responses consistent with KRS Chapter 149. Disaster and emergency response functions may be assigned within the local disaster and emergency services organization to existing agencies and organizations, public and private. It shall not be necessary for the local disaster and emergency services organization to create, provide, or maintain an additional or auxiliary capability for any existing function or service deemed adequate to local needs.
- (3) The local disaster and emergency services organization shall be the primary disaster and emergency response force of city, county, *or counties acting jointly under Section 3 of this Act*, urban-county government, or charter county government and an organizational component of the integrated emergency management system of the Commonwealth. The local emergency management director shall have primary responsibility for the coordination of all disaster and emergency response of the local disaster and emergency services organization for an emergency, declared emergency, disaster, or catastrophe.

➔Section 7. KRS 39B.060 is amended to read as follows:

- (1) The city or county, *joint county when counties are acting jointly under Section 3 of this Act*, or city/county emergency operations plan developed pursuant to the provisions of KRS Chapters 39A to 39F shall include adequate provisions or procedures to assess, mitigate, prepare for, respond to, and recover from all disaster or emergency incidents contemplated by KRS 39A.010, 39A.020, or 39A.030 and shall provide for all functions contemplated by these sections.
- (2) The local emergency operations plan shall be submitted by the local director to the county judge/executive, *or chief executive officers of each participating county when counties are acting jointly under Section 3 of this Act*, mayor, or chief executive of other local governments immediately following each regular election for these offices, for approval and adoption by the local chief executives through issuance of an executive order pursuant to the provisions of KRS Chapters 39A to 39F.
- (3) In the event of a conflict between a city emergency operations plan and a county emergency operations plan and decisions made thereunder:
 - (a) The decision made pursuant to the county plan shall prevail if the incident, its consequences, or the threat thereof, extend beyond the boundaries of the city;
 - (b) The decision made pursuant to the city plan shall prevail if the incident, its consequences, or the threat of the incident, do not extend beyond the boundaries of the city; and
- (c) The same precedence shall govern plans of urban-counties and charter counties.
- (4) *The joint plan established by counties acting jointly pursuant to Section 3 of this Act shall incorporate a joint decision-making process whereby the chief executive officers, or their designees, use the integrated emergency management system and the unified incident command system set out in KRS 39A.230 to deal with any incident.*

Signed by Governor April 10, 2014.