

LEGISLATIVE BILL 612

Approved by the Governor May 19, 1975

Introduced by Mahoney, 5

AN ACT to amend sections 68-703, 81-829.42, and 81-829.55, Revised Statutes Supplement, 1974, relating to the Nebraska Disaster and Civil Defense Act; to assent to the Disaster Relief Act of 1974, P.L. 93-288; to provide powers and duties of the Governor, the state civil defense agency, and the Department of Public Welfare as prescribed; to appropriate and reappropriate funds for the Governor's Emergency Fund; to provide severability; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 68-703, Revised Statutes Supplement, 1974, be amended to read as follows:

68-703. The powers and duties of the Director of Public Welfare are as follows:

(1) To administer the Department of Public Welfare as provided by law;

(2) To determine the general principles and outline the operation of public assistance, child welfare, and related activities;

(3) To establish rules and regulations for efficiently administering the department and performing the duties assigned to it;

(4) To organize the department;

(5) To appoint and fix the salaries of all necessary staff for performance of the duties of the department and in compliance with the rules and regulations of the merit system;

(6) To consult and cooperate with the Department of Public Institutions and the Department of Correctional Services so as to coordinate in an effective manner the welfare activities of the department with those related activities affecting the welfare of persons in state institutions which are the responsibility of the Department of Public Institutions or the Department of Correctional Services;

(7) To consult and, under the general direction and guidance of the Adjutant General and the state civil defense agency, to coordinate programs to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster;

(7) (8) To take the official oath and file a bond in such amount and surety as provided in section 11-119, to be approved by the Governor;

(8) (9) To make an annual report to the Governor and prepare a biennial budget for the department, and make such other studies and reports as may be deemed necessary; and

(9) (10) To provide such supervisory services as may be required to determine that county departments of public welfare are fulfilling their administrative duties in compliance with the statutes of Nebraska and state regulation.

Sec. 2. That section 81-829.42, Revised Statutes Supplement, 1974, be amended to read as follows:

81-829.42. (1) While annual appropriations are adequate to meet the normal needs, the Legislature recognizes the necessity for anticipating and making advance provision to care for the unusual and extraordinary burdens imposed on the state and its political subdivisions by disasters or a civil defense emergency as defined in section 81-829.39. To meet such situations, it is the intention of the Legislature to confer emergency powers on the Governor, acting through the Adjutant General and the state civil defense agency, and vesting him with adequate power and authority within the limitation of available funds in the Governor's Emergency Fund to meet any such emergency or disaster.

(2) There is hereby established a fund to be known as the Governor's Emergency Fund. It shall be expended, upon direction of the Governor, for any state of emergency. The emergency declaration shall set forth the emergency and shall state that it requires the expenditure of public funds to furnish immediate aid and relief. The Adjutant General shall administer such fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259.

(3) It is the legislative intent that the first recourse shall be to funds regularly appropriated to state and local agencies. If the Governor finds that the

demands placed upon these funds are unreasonably great, he may make funds available from the Governor's Emergency Fund. Expenditures may be made upon direction of the Governor for any or all of the civil defense functions as defined in section 81-829.39, or to meet the intent of the state disaster plans as outlined in section 81-829.41. Expenditures may also be made to state and federal agencies to meet the matching requirement of any applicable assistance programs.

(4) Assistance shall be provided from the Governor's Emergency Fund to political subdivisions of this state which have suffered from a disaster to such an extent as to impose a severe financial burden exceeding the ordinary capacity of the subdivision affected. Applications for aid under this section shall be made to the state civil defense agency on such forms as shall be prescribed and furnished by the agency and which shall require the furnishing of sufficient information to determine eligibility for aid and the extent of the financial burden incurred. The agency may call upon other agencies of the state in evaluating such applications. The Adjutant General shall review each application for aid under the provisions of this section and recommend its approval or disapproval, in whole or in part, to the Governor. If the Governor approves, he shall determine and certify to the Adjutant General the amount of aid to be furnished. The Adjutant General shall thereupon issue his voucher to the Director of Administrative Services, who shall issue his warrants therefor to the applicant.

(5) When a disaster emergency has been proclaimed by the Governor, or in the event of a civil defense emergency, the Adjutant General, upon order of the Governor, shall have authority to expend funds to meet but not be limited to the following situations:

(a) The purposes of sections 81-829.36 to 81-829.68 to include civil defense functions as defined in section 81-829.39, and the responsibilities of the Governor and the state civil defense agency as outlined in sections 81-829.40 and 81-829.41;

(b) Employing for the duration of the emergency additional personnel and contracting or otherwise procuring all necessary appliances, supplies, and equipment;

(c) Performing services for and furnishing materials and supplies to state government agencies, counties, and municipalities with respect to performance of any duties enjoined by law upon such agencies,

counties, and municipalities which they are unable to perform because of extreme climatic phenomena, and receiving reimbursement in whole or in part from such agencies, counties, and municipalities able to pay therefor under such terms and conditions as may be agreed upon by the Adjutant General and any such agency, county, or municipality;

(d) Performing services for and furnishing materials to any individual in connection with alleviating hardship and distress growing out of extreme climatic phenomena, and receiving reimbursement in whole or in part from such individual under such terms as may be agreed upon by the Adjutant General and such individual;

(e) Performing services to counties and municipalities with respect to quelling riots and civil disturbances;

(f) Opening up, repairing, and restoration of roads and highways;

(g) Repairing and restoration of bridges;

(h) Furnishing transportation for supplies to alleviate suffering and distress;

(i) Restoration of means of communication;

(j) Furnishing medical services and supplies to prevent the spread of disease and epidemics;

(k) Quelling riots and civil disturbances;

(l) Training of individuals or governmental agencies for the purpose of perfecting the performance of emergency assistance duties as defined in the state disaster plans;

(m) Procurement and storage of special emergency supplies or equipment, determined by the Adjutant General as required to provide rapid response by state government to assist counties and municipalities in impending or actual emergencies; and

(n) Clearing or removing from publicly or privately-owned land or water, debris and wreckage which may threaten public health or safety; and

(*) (o) Such other measures as are customarily necessary to furnish adequate relief in cases of catastrophe or disaster.

(6) The Governor may receive such voluntary contributions as may be made from any source to aid in carrying out the purposes of this section and shall credit the same to the Governor's Emergency Fund.

(7) All obligations and expenses incurred by the Governor in the exercise of the powers and duties vested in him by the provisions of this section shall be paid by the State Treasurer out of available funds in the Governor's Emergency Fund, and the Director of Administrative Services shall draw his warrants upon the State Treasurer for the payment of such sum, or so much thereof as may be required, upon receipt by him of proper vouchers duly approved by the Adjutant General.

(8) The provisions of this section shall be liberally construed in order to accomplish the purposes of sections 81-829.36 to 81-829.68 and to permit the Governor to adequately cope with any emergency which may arise, and the powers vested in the Governor by this section shall be construed as being in addition to all other powers presently vested in him, and not in derogation of any existing powers.

(9) Such funds as may be made available by the government of the United States for the purpose of alleviating distress from disasters may be accepted by the State Treasurer, and shall be credited to the Governor's Emergency Fund unless otherwise specifically provided in the act of Congress making such funds available.

Sec. 3. That section 81-829.55, Revised Statutes Supplement, 1974, be amended to read as follows:

81-829.55. (1) All functions provided for in sections 81-829.36 to 81-829.68 and all other activities relating to civil defense are hereby declared to be governmental functions. Neither the United States, the state, nor any political subdivision thereof nor other agencies of the United States, the state, or political subdivision thereof, nor, except in cases of willful misconduct, gross negligence or bad faith, any civil defense worker complying with or reasonably attempting to comply with the provisions of sections 81-829.36 to 81-829.68 or Public Law 93-288, or any order, rule or regulation promulgated pursuant to the provisions of sections 81-829.36 to 81-829.68 or Public Law 93-288, or pursuant to any ordinance relating to black-out or other precautionary measures enacted by any political subdivision of the state shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity. The provisions of this

section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under the provisions of sections 81-829.36 to 81-829.68, or under the Nebraska Workmen's Compensation Act, or under any pension law, nor the right of any person to receive any benefits or compensation under any act of Congress.

(2) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized civil defense worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during a civil defense emergency or declared disaster emergency.

(3) Any civil defense worker, as defined in sections 81-829.36 to 81-829.68, performing civil defense services at any place in this state pursuant to agreements, compacts, or arrangements for mutual aid and assistance, to which the state or a political subdivision thereof is a party, shall possess the same powers, duties, immunities and privileges he would ordinarily possess if performing his duties in the state, province or political subdivision thereof in which normally employed or rendering services.

Sec. 4. Whenever the Governor has proclaimed a disaster emergency pursuant to section 81-829.40, the Governor shall be authorized:

(1) To enter into purchase, lease, or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster victims and to make such units available to any political subdivisions of the state;

(2) To assist any political subdivision of the state which is the location of temporary housing for disaster victims to acquire sites necessary for such temporary housing and to do all things required to prepare such sites to receive and utilize temporary housing units; and

(3) Under such regulations as he shall prescribe, to temporarily suspend or modify for not to exceed sixty days any public health, safety, zoning, transportation, or other requirement of law or regulation within this state when by proclamation he deems such suspension or modification essential to provide temporary housing for disaster victims.

Sec. 5. Any political subdivision of this state is expressly authorized to acquire, temporarily or

permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims, and to enter into whatever arrangements are necessary to prepare or equip such sites to utilize the housing units.

Sec. 6. Whenever a major disaster has been declared to exist in this state, the Governor shall be authorized:

(1) Upon his determination that a local government of the state will suffer a substantial loss of tax and other revenue from a major disaster and has demonstrated a need for financial assistance to perform its governmental functions, to apply to the federal government, on behalf of the local government, for a loan, and to receive and disburse the proceeds of any approved loan to any applicant local government subject to the terms of the loan. The Governor shall determine the amount needed by any applicant local government to restore or resume its governmental functions, and certify such amount to the federal government; and

(2) To recommend to the federal government, based upon his review, the cancellation of all or any part of repayment when, in the first three full fiscal years following the major disaster, the revenue of the local government is insufficient to meet its operating expenses, including additional disaster-related expenses of municipal operation.

Sec. 7. (1) Whenever a major disaster has been declared to exist in this state, the Governor is authorized, upon his determination that financial assistance is essential to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster that may not be otherwise met from other means of assistance, to accept a grant by the federal government to provide such financial assistance, subject to such terms and conditions as may be imposed upon the grant.

(2) The Adjutant General shall make such regulations as shall be necessary to carry out the purposes of subsection (1) of this section, including, but not limited to: (a) Standards of eligibility for persons applying for benefits; (b) procedures for application and administration; (c) methods of investigating, filing, and approving applications; and (d) formation of local or statewide boards to pass upon applications and procedure for appeals. Such rules, regulations, and standards shall, upon approval thereof by the Governor, be promulgated so as to meet

disaster-related necessary expenses and serious needs of individuals. For the purposes of this subsection, necessary expenses and serious needs shall mean those essential requirements of food, health, clothing, and shelter.

Sec. 8. Any person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under this act shall, upon conviction of each offense, be subject to a fine of not more than five thousand dollars, or imprisonment in the county jail for not more than one year, or both.

Sec. 9. The State of Nebraska, by the adoption of this act, assents to the provisions of the Disaster Relief Act of 1974, P.L. 93-288, 93rd Congress, insofar as such provisions are permissible under the Constitution of the State of Nebraska.

Sec. 10. There is hereby appropriated one million dollars for the period ending June 30, 1975, from the General Fund to the Military Department, Agency 31 for Program No. 192, Governor's Emergency Fund. The unexpended balance in such fund on June 30, 1975, is hereby reappropriated. Such funds shall be in addition to those funds appropriated in Legislative Bill 604, Eighty-fourth Legislature, First Session, 1975.

Sec. 11. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 12. That original sections 68-703, 81-829.42, and 81-829.55, Revised Statutes Supplement, 1974, are repealed.

Sec. 13. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.

