

No. 474

AN ACT

Providing, in the event of attack upon the United States, for the continuity of the executive and judicial functions of the government of the Commonwealth and the governments of political subdivisions of the Commonwealth by providing for an additional officer to act as Governor; providing for emergency interim succession to other executive offices of the Commonwealth and its political subdivisions; providing for special emergency judges; and authorizing political subdivisions to enact resolutions and ordinances relating to the subject.

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

Emergency
Interim
Executive and
Judicial
Succession Act
of 1959.

Section 1. Short Title.—This act shall be known and may be cited as the “Emergency Interim Executive and Judicial Succession Act of 1959.”

Section 2. Statement of Policy.—Because of the existing possibility of attack upon the United States of unprecedented size and destructiveness, and in order, in the event of such an attack, to assure continuity of government through legally constituted leadership, authority and responsibility in offices of the government of the Commonwealth and its political subdivisions, to provide for the effective operation of government during an emergency, and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary to provide for additional officers who can exercise the powers and discharge the duties of Governor; to provide for emergency interim succession to government offices of this Commonwealth and its political subdivisions in the event the incumbents thereof (and their deputies, assistants or other subordinate officers authorized, pursuant to law, to exercise all of the powers and discharge the duties of such offices (hereinafter referred to as deputies) are unavailable to perform the duties and functions of such offices; and to provide for special emergency judges who can exercise the powers and discharge the duties of judicial offices in the event regular judges are unavailable.

Section 3. Definitions.—As used in this act—

(a) “Unavailable” means either that a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office (including any deputy exercising the powers and discharging the duties of an office because of a vacancy) and his duly authorized deputy are absent or unable to exercise the powers and discharge the duties of the office.

(b) "Emergency interim successor" means a person designated pursuant to this act, in the event the officer is unavailable, to exercise the powers and discharge the duties of an office until a successor is appointed or elected and qualified as may be provided by the Constitution, statutes, charters and ordinances or until the lawful incumbent is able to resume the exercise of the powers and discharge the duties of the office.

(c) "Office" includes all State and local offices, the powers and duties of which are defined by the Constitution, statutes, charters, and ordinances, except the office of Governor, and except those in the Legislature and the Judiciary.

(d) "Attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means, or other weapons or processes.

(e) "Political subdivision" includes counties, cities, towns, townships, and boroughs.

Section 4. Additional Successor to Office of Governor.—In the event that the Governor, for any of the reasons specified in the Constitution, is not able to exercise the powers and discharge the duties of his office, or is unavailable, and in the event the Lieutenant Governor and President pro tempore of the Senate be, for any of the reasons specified in the Constitution, not able to exercise the powers and discharge the duties of the office of Governor, or be unavailable, the Speaker of the House of Representatives shall, if the preceding named officers be unavailable, exercise the powers and discharge the duties of the office of Governor until a new Governor is elected and qualified, or until a preceding named officer becomes available: Provided, however, That no emergency interim successor to the aforementioned offices may serve as Governor.

Section 5. Emergency Interim Successors for State Officers.—All State officers, subject to such regulations as the Governor (or other official authorized under the Constitution and this act to exercise the powers and discharge the duties of the office of Governor) may issue, shall, upon approval of this act, in addition to any deputy authorized pursuant to law to exercise all of the powers and discharge the duties of the office, designate by title emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this act to insure their current status. The officer will designate a

sufficient number of such emergency interim successors so that there will be not less than three such deputies or emergency interim successors, or any combination thereof, at any time. In the event that any State officer is unavailable following an attack, and in the event his deputy, if any, is also unavailable, the said powers of his office shall be exercised and said duties of his office shall be discharged by his designated emergency interim successors in the order specified. Such emergency interim successors shall exercise said powers and discharge said duties only until such time as the Governor under the Constitution or authority other than this act (or other official authorized under the Constitution or this act to exercise the powers and discharge the duties of the office of Governor) may, where a vacancy exists, appoint a successor to fill the vacancy or until a successor is otherwise appointed, or elected and qualified as provided by law, or an officer (or his deputy or a preceding named emergency interim successor) becomes available to exercise or resume the exercise of the powers and discharge the duties of his office.

Section 6. Enabling Authority for Emergency Interim Successors for Local Offices.—With respect to local offices for which the legislative bodies of political subdivisions may enact resolutions or ordinances relative to the manner in which vacancies will be filled or temporary appointments to office made, such legislative bodies are hereby authorized to enact resolutions or ordinances providing for emergency interim successors to offices of the aforementioned governmental units. Such resolutions and ordinances shall not be inconsistent with the provisions of the act.

Section 7. Emergency Interim Successors for Local Officers.—The provisions of this section shall be applicable to officers of political subdivisions not included in section 6. Such officers, subject to such regulations as the executive head of the political subdivision may issue, shall, upon approval of this act, designate by title (if feasible) or by named person, emergency interim successors and specify their order of succession. The officer shall review and revise, as necessary, designations made pursuant to this act to insure their current status. The officer will designate a sufficient number of persons so that there will be not less than three deputies or emergency interim successors, or any combination thereof. In the event that any officer of any political subdivision (or his deputy provided for pursuant to law) is unavailable, the powers of the office shall be exercised and duties shall be discharged by his designated emergency interim successors in the order specified. The emergency interim successors, in the order specified, shall exercise the powers

and discharge the duties of the office to which designated until such time as a vacancy which may exist shall be filled in accordance with the Constitution or statutes, or until the officer (or his deputy or a preceding emergency interim successor) again becomes available to exercise the powers and discharge the duties of his office.

Section 8. Special Emergency Judges.—In the event that any judge of any court is unavailable after attack to exercise the powers and discharge the duties of his office, and in the event no other judge authorized to act in the event of absence, disability or vacancy or no special judge appointed in accordance with the provisions of the Constitution or statutes is available to exercise the powers and discharge the duties of such office, the duties of the office shall be discharged and the powers exercised by the special emergency judges hereinafter provided for:

(a) The Governor shall fill vacancies in the Supreme Court of the Commonwealth in accordance with the provisions of the Constitution and the statutes of this Commonwealth.

(b) The Chief Justice of the Supreme Court in consultation with the other members of said court, and after consultation with the State or county chairman of the political party concerned, shall appoint a special emergency judge of the same political party as represented by the regular judge, temporarily, to exercise the powers and duties of each unavailable judge in each court of record, except the Supreme Court.

All such appointees shall possess all the qualifications required by the Constitution and statutes of this Commonwealth.

Said special emergency judges shall discharge the duties and exercise the powers of such office only until such time as a vacancy which may exist shall be filled in accordance with the Constitution and statutes, or until the regular judge or one preceding the designee in the order of succession becomes available to exercise the powers and discharge the duties of the office.

Section 9. Formalities of Taking Office.—Prior to taking up the duties to which they may temporarily succeed, emergency interim successors and special emergency judges shall take such oath as may be required for them to exercise the powers and discharge the duties of the office to which they may succeed.

Section 10. Period in Which Authority May be Exercised.—Officials authorized to act as Governor pursuant to this act, emergency interim successors and special emergency judges are empowered to exercise the powers and discharge the duties of an office as herein authorized, only, after an attack upon the United States, as defined

herein, has occurred. The Legislature, by concurrent resolution, may, at any time, terminate the authority of said emergency interim successors and special emergency judges to exercise the powers and discharge the duties of office as herein provided.

Section 11. Removal of Designees.—Until such time as the persons designated as emergency interim successors or special emergency judges are authorized to exercise the powers and discharge the duties of an office in accordance with this act, including section 10 hereof, said persons shall retain their designations at the pleasure of the designating authority and may be removed or replaced by said designating authority at any time, with or without cause.

Section 12. Disputes.—Any dispute concerning a question of fact arising under this act with respect to an office in the executive branch of the State government (except a dispute of fact relative to the office of Governor) shall be adjudicated by the Governor (or other official authorized under the Constitution and this act to exercise the powers and discharge the duties of the office of Governor) and his decision shall be final.

Section 13. Effective Date.—This act shall take effect immediately. Act effective immediately.

APPROVED—The 23d day of October, A. D. 1959.

DAVID L. LAWRENCE

No. 475

AN ACT

To authorize the establishment of an emergency seat of government for the Commonwealth and to authorize the exercise of governmental powers and functions thereat during periods of emergency.

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

Section 1. Whenever, due to an emergency resulting from the effects of enemy attack, or the anticipated effects of a threatened enemy attack, it becomes imprudent, inexpedient or impossible to conduct the affairs of State government at the normal location of the seat thereof in Harrisburg, Dauphin County, Pennsylvania, the Governor shall, as often as the exigencies of the situation require, by proclamation, declare an emergency temporary location, or locations, for the seat of government at such place, or places, within or without this Commonwealth as he may deem advisable under the circumstances, and Governor authorized to declare emergency temporary locations for seat of government.