

103^D CONGRESS
1ST SESSION

H. R. 867

To transfer the functions of the Director of the Federal Emergency Management Agency to the Secretary of Defense.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. STARK introduced the following bill; which was referred jointly to the Committees on Armed Services and Public Works and Transportation

A BILL

To transfer the functions of the Director of the Federal Emergency Management Agency to the Secretary of Defense.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Emergency
5 Management Agency Sunset Act of 1993”.

6 **SEC. 2. TRANSFER OF FUNCTIONS.**

7 (a) IN GENERAL.—There are transferred to and vest-
8 ed in the Secretary of Defense all functions, powers, and
9 duties of the Director of the Federal Emergency Manage-
10 ment Agency under the Robert T. Stafford Disaster Relief

1 and Emergency Assistance Act and any other provision
2 of law.

3 (b) EFFECTIVE DATE.—The transfer of authority
4 under subsection (a) shall take effect beginning on the
5 90th day after the date of the enactment of this Act.

6 **SEC. 3. TRANSFER AND ALLOCATIONS OF APPROPRIA-**
7 **TIONS AND PERSONNEL.**

8 (a) IN GENERAL.—The personnel (including mem-
9 bers of the Senior Executive Service) employed in connec-
10 tion with, and the assets, liabilities, contracts, property,
11 records, and unexpended balances of appropriations, au-
12 thorizations, allocations, and other funds employed, held,
13 used, arising from, available to or to be made available
14 in connection with, any function transferred by section 2
15 of this Act, subject to section 1531 of title 31, United
16 States Code, shall be transferred to the Secretary of De-
17 fense for appropriate allocation. Personnel employed in
18 connection with functions so transferred or transferred in
19 accordance with any other lawful authority, shall be trans-
20 ferred in accordance with any applicable laws and regula-
21 tions relating to transfer of functions. Unexpended funds
22 transferred pursuant to this subsection shall only be used
23 for the purpose for which the funds were originally author-
24 ized and appropriated.

1 (b) FACILITATION OF TRANSFER BY O.M.B.—In
2 order to facilitate the transfers made by section 2 of this
3 Act, the Director of the Office of Management and Budget
4 is authorized and directed, in consultation with the Direc-
5 tor of the Federal Emergency Management Agency and
6 the Secretary of Defense, to make such determinations as
7 may be necessary with regard to the functions so trans-
8 ferred, and to make such additional incidental dispositions
9 of personnel, assets, liabilities, contracts, property,
10 records, and unexpended balances of appropriations, au-
11 thorizations, allocations, and other funds held, used, aris-
12 ing from, available to, or to be made available in connec-
13 tion with, such functions, as may be necessary to resolve
14 any disputes between the Director of the Federal Emer-
15 gency Management Agency and the Secretary of Defense.

16 (c) PLANNING.—The Director of the Federal Emer-
17 gency Management Agency and the Secretary of Defense
18 shall, beginning as soon as practicable after the date of
19 the enactment of this Act, jointly plan for the orderly
20 transfer of functions and personnel pursuant to this Act.

21 **SEC. 4. EFFECT ON PERSONNEL.**

22 (a) RATE OF PAY.—Employees covered by the merit
23 pay system under chapter 54 of title 5, United States
24 Code, who are transferred under section 3 of this Act to
25 the Department of Defense shall have their rate of basic

1 pay adjusted in accordance with section 5402 of such title.
2 With respect to the evaluation period during which such
3 an employee is transferred, merit pay determinations for
4 that employee shall be based on the factors in section
5 5402(b)(2) of such title as appraised in performance ap-
6 praisals administered by the Federal Emergency Manage-
7 ment Agency in accordance with chapter 43 of title 5,
8 United States Code, in addition to those administered by
9 the agency to which the employee is transferred.

10 (b) USE OF SERVICES OF F.E.M.A. PERSONNEL.—
11 With the consent of the Director of the Federal Emer-
12 gency Management Agency, the Secretary of Defense is
13 authorized to use the services of such officers, employees,
14 and other personnel of the Federal Emergency Manage-
15 ment Agency for such period of time as may reasonably
16 be needed to facilitate the orderly transfer of such func-
17 tions.

18 **SEC. 5. SAVING PROVISIONS.**

19 (a) EXISTING ORDERS, DETERMINATIONS, RULES,
20 REGULATIONS, AND AGREEMENTS.—All orders, deter-
21 minations, rules, regulations, and agreements—

22 (1) which have been issued, made, granted, or
23 allowed to become effective by the President, any
24 agency or official thereof, or by a court of competent

1 jurisdiction, in the performance of any function
2 which is transferred by section 2 of this Act; and

3 (2) which are in effect on the date of the enact-
4 ment of this Act,

5 shall continue in effect according to their terms until
6 modified, terminated, superseded, set aside, or revoked in
7 accordance with law by the Secretary of Defense, or other
8 authorized officials, a court of competent jurisdiction, or
9 by operation of law.

10 (b) PENDING APPLICATIONS.—The transfers of func-
11 tions made by section 2 of this Act shall not affect any
12 application for any financial assistance pending at the
13 time such transfers take effect before the Director of the
14 Federal Emergency Management Agency.

15 (c) PENDING SUITS.—Except as provided in sub-
16 section (e)—

17 (1) the transfer of any function under section
18 2 of this Act shall not affect any suit relating to
19 such function which is commenced prior to the date
20 the transfer takes effect; and

21 (2) in all such suits, proceedings shall be had,
22 appeals taken, and judgments rendered in the same
23 manner and effect as if section 2 of this Act had not
24 been enacted.

1 (d) CAUSES OF ACTION.—No suit, action, or other
2 proceeding commenced by or against any officer in his of-
3 ficial capacity as an officer of the Federal Emergency
4 Management Agency shall abate by reason of the transfer
5 of any function under section 2 of this Act. No cause of
6 action by or against the Federal Emergency Management
7 Agency, or by or against any officer thereof in his official
8 capacity, shall abate by reason of the transfer of any func-
9 tion under section 2 of this Act.

10 (e) PARTY TO A SUIT.—If, before the date of the en-
11 actment of this Act, the Federal Emergency Management
12 Agency, or officer thereof in his official capacity, is a party
13 to a suit relating to a function transferred by section 2
14 of this Act, then such suit shall be continued with the Sec-
15 retary of Defense.

16 (f) REFERENCES.—With respect to any function
17 transferred to the Secretary of Defense by section 2 of
18 this Act and exercised after the effective date of such
19 transfer, reference in any Federal law to the Federal
20 Emergency Management Agency, or to any officer or of-
21 fice of the Federal Emergency Management Agency, shall
22 be deemed to refer to the Department of Defense, or other
23 official or component of the Department of Defense.

24 (g) FORCE AND EFFECT OF ACTIONS.—In the exer-
25 cise of any function transferred under section 2 of this

1 Act, the Secretary of Defense shall have the same author-
2 ity as that vested in the Director of the Federal Emer-
3 gency Management Agency with respect to such function,
4 immediately preceding its transfer, and actions of the Sec-
5 retary of Defense shall have the same force and effect as
6 when exercised by the Director of the Federal Emergency
7 Management Agency.

8 (h) CONTINUITY.—In exercising any function trans-
9 ferred by section 2 of this Act, the Secretary of Defense
10 shall give full consideration to the need for operational
11 continuity of the function transferred.

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