WEST VIRGINIA CODE CHAPTER 7 ARTICLE 15

WV Legislature

§7-15-1. Short title.

This article shall be known and may be cited as the "Emergency Ambulance Service Act of 1975."

WV Legislature

§7-15-2. Legislative findings and declaration of policy.

The Legislature hereby finds and declares:

(a) That a significant part of the population of this state does not have adequate emergency ambulance service;

(b) That the establishment and maintenance of adequate emergency ambulance systems for the entire state is necessary to promote the health and welfare of the citizens and residents of this state;

(c) That emergency ambulance service is not likely to become available to all the citizens and residents of this state unless specific requirements therefor are provided by law;

(d) That emergency ambulance service is a public purpose and a responsibility of government for which public money may be spent; and

(e) This article is enacted in view of these findings and shall be liberally construed in the light thereof.

WV Legislature

§7-15-3. Definitions.

As used in this article, unless a different meaning appears from the context:

(a) "Authority" means any emergency ambulance service authority created pursuant to the provisions of this article;

(b) "Board" means the board of any emergency ambulance service authority;

(c) "Contiguous counties" means two or more counties which constitute a compact territorial unit within an unbroken boundary wherein one county touches at least one other county, but does not require that each county touch all of the other counties so combining;

(d) "Facilities and equipment" means all real and personal property of every kind and character owned or held by any emergency ambulance service authority;

(e) "Participating government" means any municipality or county establishing or participating in an emergency ambulance service authority;

(f) "Project" means any undertaking of an authority;

(g) "Revenues" means the gross receipts derived directly or indirectly from or in connection with the operation of an authority and shall include, without limitation, all fees, rates, fares, rentals or other income actually received or receivable by or for the account of an authority from the operation of the authority's facilities and equipment, and any other receipts from whatever source derived;

(h) "Service area of the authority" means and includes an area commensurate with the territorial boundaries of each participating government and beyond to the extent permitted by any agreement with any county or municipality which is not a participating government in the project;

(i) "System" means any emergency ambulance service provided pursuant to the provisions of this article; and

(j) The singular shall include the plural and the plural shall include the singular.

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§7-15-4. Duty of county commissions to provide emergency ambulance service; emergency ambulance service authorities authorized; authorities to be public corporations.

Except as hereinafter provided and in addition to all other duties imposed upon it by law, the county commission shall cause emergency ambulance service to be made available to all the residents of the county where such service is not otherwise available: Provided, however, That the duty imposed upon county commissions by this article shall not be construed in such manner as to impose a duty to cause such emergency ambulance service to be provided unless the commission shall make an affirmative determination that there are funds available therefor by the inclusion of a projected expenditure for such purpose in the current levy estimate, and in the event that such county commission shall make such determination the commission shall not be under a duty to cause such service to be provided beyond a level commensurate with the amount of funds actually available for such purpose.

The county commission may provide the service directly through its agents, servants and employees; or through private enterprise; or by its designees; or by contracting with individuals, groups, associations, corporations or otherwise; or it may cause such services to be provided by an authority, as provided for in this article; and any municipality or county, or both, or any two or more municipalities within any county or contiguous counties, or any two or more contiguous counties, or any combination thereof, may create an authority. Such authority shall be created upon the adoption, by the governing body of each participating government, acting individually, of an appropriate ordinance or order. Each authority shall constitute a public corporation, and as such, shall have perpetual existence. The authority shall be known by such name as may be established by the board.

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§7-15-5. Management of authority vested in board; eligibility, appointment, number and term of members; vote of members; vacancies.

The management and control of any authority, its operations, business and affairs shall be lodged in a board of not less than five nor more than fifteen individuals who shall be known as members of the board and who shall be appointed for terms of three years each by the governing bodies of the participating governments. Prior to making the initial appointments to the board, the governing bodies of the participating governments shall agree to make such initial appointments so that approximately one third of the total number of the members to be so appointed shall be appointed for a term of one year, approximately one third of such total number of the members shall be appointed for a term of two years and approximately one third of such total number of the members shall be appointed for a term of three years. As the term of each such initial appointee expires, the successor to fill the vacancy created by such expired term shall be appointed for a term of three years. The number of members representing each participating government shall be as agreed upon from time to time by the governing bodies of the participating governments. Each member of the board shall have one vote on all matters coming before it. Any individual who is a resident of, or member of the governing body of any participating government is eligible to serve as a member of the board. The governing body of each participating government shall inform the authority of its appointments or reappointments to the board by delivering to the authority a certified copy of the ordinance or order making the appointment or reappointment. If any member of the board dies, resigns or for any other reason ceases to be a member of the board, the governing body of the participating government which such member represented shall appoint another individual to fill the unexpired portion of the term of such member.

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§7-15-6. Compensation of members; expenses.

As compensation for his services on the board, each member shall receive from the authority the sum of not more than $20 for each meeting actually attended, as may be determined by the board. The total compensation paid to any member by the authority for any fiscal year shall not exceed in the aggregate the sum of $600. Each member shall also be reimbursed by the authority for all reasonable and necessary expenses actually incurred in the discharge of his duties as a member of the board.

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§7-15-7. Meetings of authority; officers; employees; official bonds; records of authority public records.

At its first meeting, to be held no later than sixty days from the creation of the authority as provided in this article, the board shall elect from among its membership a president to act during the next ensuing fiscal year, or until his successor is elected and qualified. At that time, the board shall also elect a vice president, a secretary and a treasurer and such other officers as may be required, who need not be members of the board, whose duties shall be defined and whose compensation shall be fixed by the board and paid out of the funds of the authority. The treasurer, and such other officers and employees as the board shall direct, shall furnish bond for the use and benefit of the authority in such penal sum as may be fixed by the board and conditioned upon the faithful discharge by such treasurer and such other officers and employees so directed by the board of the duties of their respective offices or employment, and upon accounting for and paying over all moneys which may come into their possession by virtue of such office or employment. At its first meeting the board shall also fix the time and place for holding regular meetings, but it shall meet at least once in the months of January, April, July and October. Special meetings of the board may be called by the president or by two members upon written request to the secretary. The secretary shall send to all the members, at least two days in advance of a special meeting, a written notice setting forth the time and place of the special meeting and the matters to be considered at such special meeting. Written notice of a special meeting is not required if the time of the special meeting has been fixed in a regular meeting or if all the members are present at the special meeting. All regular meetings shall be general meetings for the consideration of any and all matters which may properly come before an authority. All proceedings of the authority shall be entered in a permanently bound record book, properly indexed, and shall be carefully preserved by the secretary of the authority. All records of the authority shall be public records.

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§7-15-8. Quorum; majority vote required.

A majority of the members of the board shall constitute a quorum. The vote of a majority of all members present at any meeting of the board shall be necessary to take any action.

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§7-15-9. Budget.

The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and, at least thirty days prior to the beginning of the first full fiscal year after the creation of the authority and annually thereafter, the treasurer shall prepare and submit to the board a tentative budget. The tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. No expenditures in excess of the budget shall be made during such fiscal year unless expressly authorized and directed by the board.

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§7-15-10. Powers and duties of authorities generally.

Each authority is hereby given the power:

(a) To sue and be sued, implead and be impleaded;

(b) To have and use a seal and alter the same at pleasure;

(c) To make and adopt all rules and regulations and bylaws as may be necessary or desirable to enable it to exercise the powers and perform the duties conferred or imposed upon it by the provisions of this article;

(d) To provide emergency ambulance service, maintain and operate such service, and employ, in its discretion, planning consultants, attorneys, accountants, superintendents, managers and such other employees and agents as may be necessary in its judgment and fix their compensation;

(e) To acquire by grant, purchase, gift, devise or lease and to hold, use, sell, lease or otherwise dispose of real and personal property of every kind and nature whatsoever, licenses, franchises, rights and interests necessary for the full exercise of its powers pursuant to the provisions of this article or which may be convenient or useful for the carrying out of such powers;

(f) To enter into contracts and agreements which are necessary, convenient or useful to carry out the purposes of this article with any person, public corporation, state or any agency or political subdivision thereof and the federal government and any department or agency thereof, including, without limitation, contracts and agreements for the joint use of any property and rights by the authority and any person or authority operating any system, whether within or without the service area of the authority, and contracts and agreements with any person or authority for the maintenance, servicing, storage, operation or use of any system or part thereof, facility or equipment on such basis as shall seem proper to its board;

(g) To enter into contracts and agreements for superintendence and management services with any person, who has executive personnel with experience and skill applicable to the superintendence and management of any system, for the furnishing of its services and the services of experienced and qualified personnel for the superintendence and management of any system or any part thereof, including, without limitation, superintendence over personnel, purchases, properties and operations and all matters relating thereto, and any revenue bond trust indenture may require such contract or agreement, but the personnel whose services are to be so furnished under any such contract or agreement shall not include any member of the board, any member of the immediate family of a member of the board or any agents or employees of the authority;

(h) To execute security agreements, contracts, leases, equipment trust certificates and any other forms of contract or agreement, granting or creating a lien, security interest,

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encumbrance or other security in, on or to facilities and equipment, containing such terms and provisions as the board considers necessary;

(i) To apply for, receive and use grants, grants-in-aid, donations and contributions from any source or sources, including, but not limited to, the federal government and any agency or department thereof, and a state government whose Constitution does not prohibit such grants, grants-in-aid, donations and contributions, and any agency or department thereof, and to accept and use bequests, devises, gifts and donations from any person;

(j) To encumber or mortgage all or any part of its facilities and equipment;

(k) To render all services permitted pursuant to article four-c, chapter sixteen of this code, including, but not limited to, emergency and nonemergency transportation; and

(l) To do any and all things necessary or convenient to carry out the powers given in this article unless otherwise forbidden by law.

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§7-15-11. Contributions to authorities; funds and accounts of authorities; reports; audit by State Tax Department.

Contributions may be made to authorities from time to time by the participating governments and by the State of West Virginia, the United States of America, municipalities, counties or persons that shall desire to do so. All such funds and all of the other funds received by any authority shall be deposited in a separate account in such banking institution or institutions as its board may direct and shall be withdrawn therefrom only in such manner as its board may direct. Each authority shall keep strict account of all its receipts and expenditures and shall make a quarterly report to the participating governments which have made contributions to it. The report shall contain an itemized account of the authority's receipts and disbursements during the preceding quarter and shall be made within sixty days after the termination of the quarter. Within ninety days after the end of each fiscal year, each authority shall make an annual report containing an itemized statement of its receipts and disbursements for the preceding fiscal year, and any and all other information which the board may consider pertinent, to all of the participating governments. The books, records and accounts of each authority shall be subject to audit and examination by the State Tax Department.

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§7-15-12. Emergency ambulance service not regulated by Public Service Commission.

Any authority created pursuant to the provisions of this article and any county commission which provides emergency ambulance service hereunder shall not be subject to regulation by the Public Service Commission.

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§7-15-13. Exemption from taxation.

It is hereby found, determined and declared that the creation of any authority and the carrying out of its purposes is in all respects for the benefit of the people of this state in general and of the participating governments in particular and is a public purpose; and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by the provisions of this article. Accordingly, each authority and, without limitation, its revenues, properties, operations and activities shall be exempt from the payment of any taxes or fees to the state or any of its political subdivisions: Provided, That this exemption shall not apply to the tax imposed by section seven, article twenty-seven, chapter eleven of this code on gross receipts derived from transporting patients. Interest on obligations and all evidences of indebtedness of any such authority shall be exempt from taxation, except inheritance and transfer taxes.

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§7-15-14. Indebtedness of authorities.

No indebtedness or obligation incurred by any authority shall give any right against any member of the governing body of any participating government or any member of the board of any authority. Any obligation or indebtedness of any nature of any authority shall never constitute an obligation or indebtedness of any participating government or the governing body of any participating government, within the meaning of any Constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of any participating government or the governing body of any participating government or be a charge against the general credit or taxing power of any participating government or the governing body of any participating government. The rights of creditors of any authority shall be solely against the authority as a corporate body and shall be satisfied only out of revenues, moneys or property received or held by it in its corporate capacity.

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§7-15-15. Conflict of interest.

No member of any authority, nor any of its officers, employees, agents or consultants, shall have any interest in any firm, partnership, corporation, company, association or joint-stock association engaged in the business of providing ambulance service or in the manufacture, sale or lease of ambulance equipment or facilities. No member of any authority, nor any of its officers, employees, agents or consultants, shall contract with the authority or be interested in, either directly or indirectly, any contract with the authority or in the sale of property, either real or personal, to such authority.

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§7-15-16. Competitive bids; publication of solicitation for sealed bids.

A purchase of or contract for all supplies, equipment and materials and a contract for the construction of facilities by any authority, when the expenditure required exceeds the sum of $10,000, shall be based on competitive sealed bids. Bids shall be obtained by public notice published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for publication is the service area of the authority. The second publication shall be made at least fourteen days before the final date for submitting bids. In addition to publication, the notice may also be published by any other advertising medium the authority may consider advisable and the authority may also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notice on a bulletin board in the office of the authority.

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§7-15-17. Imposition and collection of special emergency ambulance service fee by county commission.

A county commission may, by ordinance, impose upon and collect from the users of emergency ambulance service within the county a special service fee, which shall be known as the "special emergency ambulance service fee." The proceeds from the imposition and collection of any special service fee shall be deposited in a special fund and used only to pay reasonable and necessary expenses actually incurred and the cost of buildings and equipment used in providing emergency ambulance service to residents of the county. The proceeds may be used to pay for, in whole or in part, the establishment, maintenance and operation of an authority, as provided for in this article: Provided, That an ambulance company or authority receiving funds from the special emergency ambulance fees collected pursuant to this section may not be precluded from making nonemergency transports.

WV Legislature

§7-15-18. Article constitutes complete authority; liberal construction; severability.

This article shall constitute full and complete authority for the provision of emergency ambulance service within a county by a county commission and for the creation of any authority and carrying out the powers and duties of any such authority. The provisions of this article shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals shall be required in connection therewith except as may be prescribed by this article.

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