WEST VIRGINIA CODE CHAPTER 7 ARTICLE 17

WV Legislature

§7-17-1. Findings.

The Legislature finds that fire protection and saving lives and property are important to the health and welfare of the citizens of the state and that it is desirable for county governments to provide fire protection services to county residents.

WV Legislature

§7-17-2. Definitions.

As used in this article unless the context clearly indicates otherwise:

(1) "User" means any person to whom fire service is made available under the provisions of this article.

(2) "County commission" means the county commission or tribunal in lieu thereof of every county within the State of West Virginia as provided in section nine, article nine of the Constitution of the State of West Virginia.

(3) "County fire association" means an association created in section three of this article.

(4) "County fire board" means that board created in section six of this article.

(5) "Fire service" means an organization that provides fire prevention and fire protection to a community, the members of such an organization or the fire fighting profession as a whole.

(6) "Qualified voters" means registered voters who reside in the affected fire service district and are users or prospective users of the fire prevention and fire protection services provided by the fire service under the provisions of this article.

WV Legislature

§7-17-3. County fire association creation; prohibiting entrance by a municipality maintaining a full time paid fire department.

The fire departments within each county are hereby authorized to create and establish a county fire association, hereinafter referred to as “fire association.” The county fire association is created to discuss fire protection services to address fire protection problems at the county level.

Upon the creation of a fire association, any full-time paid fire department located in a municipality, as defined in §8-15-9 of this code is excluded from the provisions of this article.

However, this provision shall not prohibit the county commission or the fire board with the approval of the county commission from contracting with the fire department of any political subdivision for fire protection services rendered to the county.

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§7-17-4. Management and control vested in the county fire association; appointment.

The management and control of the fire association, its property, operations, business and affairs shall be lodged with the representatives from each state Fire Commission recognized fire department forming the fire association. For the purpose of forming the membership of the fire association, each fire department shall appoint one representative, by a majority vote of the members of the fire department, to serve on the fire association: Provided, That in the event three or less fire departments form the fire association each fire department shall elect two representatives, by a majority vote of the members of each fire department, to serve on the fire association: Provided, however, That in the event only one fire department forms the fire association the members of the fire department shall conduct the fire association's business. The members of the fire association shall serve for a term of three years with the initial appointments beginning on July 1, 1984. If a member resigns or for any other reason his position terminates during his term of membership, a successor shall be elected by majority vote of the members of the represented department to fill out the remainder of the vacated term. Members in office at the expiration of their respective terms shall continue to serve until their successors have been appointed and have qualified.

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§7-17-5. Sale or lease of property; reversion of assets upon dissolution.

The fire association shall fix and determine the terms and conditions of any property or equipment to be leased or sold by the fire association. Upon dissolution of the fire association, all of its assets and property contributed by the county commission shall revert to and become the property of the county for which the board was created.

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§7-17-6. County fire board creation and management; membership; terms of members; vacancies.

The county fire association upon two-thirds vote of its membership shall submit an application to the county commission requesting that the county commission create the county fire board. Upon receipt of such application the county commission may by majority vote create such a fire board and if so created the county fire board, if authorized, shall be a corporation. The county fire board shall establish the funding priorities for the fire departments forming the fire association and shall present a list of those priorities to the county commission. However, no fire department or representative of a fire department who is a member of the fire board or fire association may apply for county funding from the county commission except as provided for in subsection seven, section ten of this article. The bylaws of the county fire board and standards of operation of the fire association shall be submitted to, and approved by, the state Fire Commission and county commission.

The county fire board shall consist of seven members. The initial appointment to the county fire board shall begin on July 1, 1984. One county commissioner, chosen by the county commission, shall serve on the board. The county commission shall make the initial appointments to the fire board so that one third of the fire association members and the citizen members to be so appointed shall be appointed for a term of one year, one third of the fire association members and the citizen members shall be appointed for a term of two years and one third of the fire association members and the citizen 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 by the county commission for a term of three years. The county fire association shall submit to the county commission the names of five members of the fire association, three of whom shall be appointed by the county commission to serve a term of three years. Such members are limited to two consecutive terms. Three citizen members shall be appointed by the county commission to serve on the board. The citizen members may not be associated with fire service or the county commission. The citizen members must be residents of the county of which the county fire board is formed and not more than one citizen member may be appointed from the same magisterial district in the county. The citizen members shall serve for a term of three years but are limited to two consecutive terms. If a member resigns or for any other reason his membership terminates during his term of office, a successor shall be appointed from the same representative area to fill out the remainder of his term. Members in office at the expiration of their respective terms shall continue to serve until their successors have been appointed and have qualified.

Annually the board shall elect one of its appointed members as chairman and another as vice chairman, and shall appoint a secretary-treasurer. Four members of the board shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by vote of the board. No vacancy in the membership of the authority shall impair the rights of a quorum by such vote to exercise all the rights and perform all duties of the board.

WV Legislature

§7-17-7. Resident requirement of county fire board members; municipality location.

All members of the county fire board shall be residents of the county in which the county fire board is intended to operate. If a county boundary line divides a municipality's city limits, the area of the municipality in which the majority of the municipality's population resides determines the county in which the municipality is located for this purpose.

WV Legislature

§7-17-8. Compensation; expenses.

No member of the board may receive any compensation in connection with his services as a member. Each member, however, is entitled to reimbursement by the county fire board for any necessary expenses actually incurred in connection with the performance of his duties. However, not more than one percent of the annual appropriations to the board may be used for administrative expenses by the board.

WV Legislature

§7-17-9. Board to be a public corporation.

The county fire board shall constitute and if authorized be created a public corporation under the name provided for in its articles of incorporation and, as such, shall have perpetual succession, may contract with and be contracted with, sue and be sued, and have and use a corporate seal.

WV Legislature

§7-17-10. Powers generally.

The county fire board may:

(1) Make and adopt all necessary bylaws, rules and regulations for its organization and operations not inconsistent with law;

(2) Elect its own officers, appoint committees and employ and fix compensation for personnel necessary for its operation;

(3) Enter into contracts with any person, agency, governmental department, firm or corporation, including both public and private corporations, and renew, amend or supplement such contracts;

(4) Generally do any and all things necessary or convenient for the purpose of improving fire service protection within the area to be served;

(5) Borrow money, apply for, receive and use grants-in-aid, donations and contributions from any source or sources and accept and use bequests, devises, gifts and donations from any person, firm or corporation;

(6) Raise funds by the issuance and sale of revenue bonds in the manner provided by law;

(7) Formulate and present a petition for funds to the county commission: Provided, That not more than one percent of such funds be used for purposes other than the prioritized needs of the member departments;

(8) Purchase or otherwise acquire, own, hold, sell and dispose of real and personal property; and

(9) Expend its funds in the execution of the powers and authority herein given, which expenditures, by the means authorized herein, are hereby determined and declared as a matter of legislative finding to be for a public purpose and use, in the public interest and for the general welfare of the people of West Virginia.

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§7-17-11. Limitations.

County fire associations and county fire boards shall be subject to the authority of the governing body in which said association and boards are primarily located.

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§7-17-12. County fire service fees; petition; election; dedication; and amendment.

(a) Every county commission which provides fire protection services has plenary power and authority to provide by ordinance for the continuance or improvement of such service, to make regulations with respect thereto, and to impose by ordinance, upon the users of such services, reasonable fire service rates, fees, and charges to be collected in the manner specified in the ordinance.

(b) Any fees imposed under this article are dedicated to the county fire board for the purposes provided in this article.

(c) A county commission can impose by ordinance, upon the users of such service, a reasonable fire service fee, by one of two methods:

(1) Ten percent of the qualified voters shall present a petition duly signed by them in their own handwriting, and filed with the clerk of the county commission, directing that the county commission impose such a fee. The county commission shall not have a lien on any property as security for payments due under the ordinance. Any ordinance enacted under the provisions of this section shall be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the county in which the county fire board is located. In the event 30 percent of the qualified voters of the county by petition duly signed by them in their own handwriting and filed with the clerk of the county commission within 45 days after the expiration of such publication protest against such ordinance as enacted or amended, the ordinance may not become effective until it is ratified by a majority of the legal votes cast thereon by the qualified voters of such county at any primary or general election as the county commission directs. Voting thereon may not take place until after notice of the submission has been given by publication as above provided for the publication of the ordinance after it is adopted. The powers and authority hereby granted to county commissions are in addition to and supplemental to the powers and authority otherwise granted to them by other provisions of this code; or

(2) If the county fire board determines an amendment in the fee imposed in subsection (a) of this article is necessary, it may, by resolution, request the county commission for such a change. Upon receipt of the resolution from the county fire board, the county commission may take such action on the resolution as, in the sole exercise of its discretion, the commission determines is appropriate, including, but not limited to, rejection thereof. If the county commission agrees that an amendment of the fee is necessary, it shall, by ballot referendum, amend the ordinance imposing a fire fee and adopt the changes in the fee it has determined is necessary.

(A) This referendum, to determine whether it is the will of the voters of a county that an amendment to the fire fee is necessary, may be held at any regular primary or general election, or, in conjunction with any other countywide election. Any election at which the question of amending the fire fee is voted upon shall be held at the voting precincts

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established for holding primary or general elections. All of the provisions of the election laws, when not in conflict with the provisions of this article, shall apply to voting and elections hereunder, insofar as practicable. The county commission shall, not less than 90 days before the election, order that the issue be placed on the ballot and referendum held at the next primary or general election to determine whether it is the will of the voters of the county that a fire fee be amended: *Provided*, That prior to issuing the order, the county commission shall publish the ordinance which must contain the anticipated allocation of any fees or charges and which would be enacted should the referendum succeed as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the county in which the county fire board is located.

(B) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the county commission be permitted to amend the fire fee in _____ County, West Virginia?

__ For the fee amendment.

__ Against the fee amendment.

(Place a cross mark in the square opposite your choice.)"

(C) If a majority of legal votes cast upon the question be for the fire fee amendment, the county commission shall, after the certification of the results of the referendum, thereinafter adopt an ordinance, within 60 days of certification, establishing the fire fee amendment in the county: *Provided*, That such program shall be implemented and operational no later than 12 months following certification. If a majority of the legal votes cast upon the question be against the fire fee amendment, then the policy shall not take effect, but the question may again be submitted to a referendum at any subsequent election in the manner herein provided.

(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

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§7-17-13. Incurring indebtedness; rights of creditors.

The county fire board may incur any proper indebtedness and issue any obligations and give any security therefor which it considers necessary or advisable in connection with carrying out its purposes as hereinbefore mentioned. No statutory limitation with respect to the nature, or amount, interest rate or duration of indebtedness which may be incurred by municipalities or other public bodies applies to indebtedness of the county fire board.

No indebtedness or obligation incurred by the board shall give any right against any member of the governing body of any participating government or any member of the board. Any obligation or indebtedness of any nature of the board 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 the board shall be solely against the board as a corporate body and shall be satisfied only out of revenues, moneys or property received or held by it in its corporate capacity.

WV Legislature

§7-17-14. Agreements in connection with obtaining funds.

The county fire board may, in connection with obtaining funds for its purposes, enter into any agreement with any person, firm or corporation, including the federal government; or any agency or subdivision thereof, containing provisions, covenants, terms and conditions as the county fire board considers advisable.

WV Legislature

§7-17-15. Property, bonds and obligations of authority exempt from taxation.

The county fire board is exempt from the payment of any taxes or fees to the state or any subdivision thereof or to any officer or employee of the state or other subdivision thereof. The property of the county fire board is exempt from all local and municipal taxes. Bonds, notes, debentures and other evidence of indebtedness of the county fire board are declared to be issued for a public purpose and to be public instrumentalities and are exempt from taxes.

WV Legislature

§7-17-16. Appropriations authorized.

The county commission and any municipality therein, or any one or more of them, jointly and severally, may contribute by appropriation from any funds available, to the cost of the operation and projects of the county fire board.

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§7-17-17. Contributions by county commissions, municipalities and others; funds and accounts; reports; audit and examination of books, records and accounts and penalties.

Contributions may be made to the county fire board from time to time by the county commission of the county or any municipal corporation therein, and by any persons, firms or corporations which desire to do so. All such funds and all other funds received by the county fire board shall be deposited in such bank or banks as the county fire board may direct and shall be withdrawn therefrom in such manner as the county fire board may direct. The county fire board shall keep strict account of all its receipts and expenditures and shall each quarter make a quarterly report to the county commission and municipalities containing an itemized statement of its receipts and disbursements during the preceding quarter. Within sixty days after the end of each fiscal year, the county fire board shall make an annual report containing an itemized statement of its receipts and disbursements for the preceding fiscal year. The annual report shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the county in which the county fire board is located. The books, records and accounts of the board are subject to audit and examination by the office of the State Tax Commissioner of West Virginia and by any other proper public official or body in the manner provided by law. For failure to comply with the provisions of this section the county fire board shall be fined not less than ten nor more than $25.

WV Legislature

§7-17-18. Sale or lease of property; reversion of assets upon dissolution.

The county fire board shall fix and determine the terms and conditions of any property or equipment to be leased or sold by the county fire board. Upon the dissolution of the county fire board, all of its assets and property shall revert to and become the property of the county for which the board was created.

WV Legislature

§7-17-19. Employees to be covered by workers' compensation.

All employees of the county fire board eligible thereto are considered to be within the Workers' Compensation Act of West Virginia, and premiums on their compensation shall be paid by the county fire board as required by law.

WV Legislature

§7-17-20. Liberal construction of article.

It is the purpose of this article to provide for the improvement, development and advancement of fire protection services within the counties and this article shall be liberally construed as giving to the county fire board full and complete power reasonably required to give effect to the purposes hereof.

WV Legislature