WEST VIRGINIA CODE: §7-20-11

§7-20-11. Additional powers.

(a) In addition to any other powers which a county may now have and not withstanding the provisions of section six of this article, each county, by and through its county commission, shall have the following powers:

(1) To acquire, whether by purchase, construction, gift, lease or otherwise, one or more infrastructure projects, or additions thereto, which shall be located within the county;

(2) To lease, lease with an option to purchase, sell, by installment sale or otherwise, or otherwise dispose of, to others any infrastructure projects for such rentals or amounts and upon such terms and conditions as the county commission may deem advisable;

(3) To establish a special infrastructure fund as a separate fund into which all special service fees and other revenues designated by the county commission shall be deposited, and from which all project costs shall be paid, which may be assigned to and held by a trustee for the benefit of bondholders if special infrastructure revenue bonds are issued by the county commission; and

(4) To impose a countywide service fee to pay the costs of one or more infrastructure projects, including, but not limited to, the payment of debt service on any revenue bonds issued under section thirteen of this article.

(b) For purposes of this section and its implementation and use:

(1) "Capital improvements" means the following public facilities or assets that are owned, supported or established by a county commission:

(A) Water treatment and distribution facilities;

(B) Wastewater treatment and disposal facilities;

(C) Sanitary sewers;

(D) Storm water, drainage and flood control facilities; and

(E) Public road systems, including, but not limited to, rights-of-way, lighting, sidewalks and gutters.

"Capital improvements" as defined herein is limited to those improvements that are treated as capitalized expenses according to generally accepted governmental accounting principles and that have an expected useful life of no less than three years. "Capital improvement" does not include costs associated with the operation, repair, maintenance or full replacement of

WV Legislature

capital improvements. "Capital improvement" does include reasonable costs for planning, design, engineering, land acquisition and other costs directly associated with the capital improvements described herein, whether incurred prior to or subsequent to imposition of a countywide service fee. This includes costs incurred by a developer prior to imposition of the countywide service fee that would have been incurred by the county commission as part of the cost of capital improvement, provided such costs were not incurred more than thirty-six months before the county commission adopts the order imposing the countywide service fee, or such shorter period, as determined to be reasonable in the sole discretion of the county commission.

(2) "Plan" means the plan for special infrastructure projects that includes one or more capital improvements, as defined in this section that is adopted by a county commission in conformity with the requirements of this article.

(c) Before commencing certain infrastructure projects, the county commission shall obtain written confirmations from an affected public utility or the West Virginia Department of Transportation or other agency, as provided in this section:

(1) If the project includes water, wastewater or sewer improvements, the county commission shall obtain from the utility or utilities that provide service in the area or areas where the improvements will be made that the utility or utilities:

(A) Currently has adequate capacity to provide service without significant upgrades or modifications to its treatment, storage or source of supply facilities;

(B) Will review and approve all plans and specifications for the improvements to determine that the improvements conform to the utility's reasonable requirements and, if the improvement consists of water transmission or distribution facilities, that the improvements provide for adequate fire protection for the district; and

(C) If built in conformance with said plans and specifications, will accept the improvements following their completion, unless the project will continue to be owned by the county commission.

(2) If the special infrastructure project includes improvements other than as set forth in subdivision (1), subsection (b) of this section that will be transferred to the West Virginia Department of Transportation or other governmental agency, written evidence that the department or agency will accept the transfer if the infrastructure project is built in conformance with requirements of the Department of Transportation, or other agency, pursuant to plans and specifications approved by the department or other agency.

WV Legislature