

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1971

ENROLLED

COMMITTEE SUBSTITUTE FOR

HOUSE BILL No. 702

ORIGINATING IN THE COMMITTEE ON THE JUDICIARY

(By Mr. \_\_\_\_\_)

PASSED MARCH 13, 1971

In Effect NINETY DAYS FROM Passage

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA

APR 2 11 48 PM '71

RECEIVED

FILED IN THE OFFICE  
J. B. LOCKEFILLER, IV  
SECRETARY OF STATE  
THIS DATE 4-2-71

702 - Veto

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**House Bill No. 702**

---

(Originating in the Committee on the Judiciary)

---

[Passed March 13, 1971; in effect ninety days from passage.]

---

AN ACT to amend and reenact article twenty-five, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to regional planning and development; relating to regional planning and development councils and their composition, powers, functions and duties; and requiring participating governments to contribute to the support thereof.

*Be it enacted by the Legislature of West Virginia:*

That article twenty-five, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 25. INTERGOVERNMENTAL RELATIONS—REGIONAL  
PLANNING AND DEVELOPMENT COUNCILS.**

**§8-25-1. Legislative findings and purpose.**

1 The Legislature hereby finds and declares that as a  
2 result of changes in the economy, population shifts, new  
3 transportation demands and increasing demands for pub-  
4 lic services, and as a result of increasing complexity in  
5 government programs and added demands on public  
6 revenues, there is a need to plan comprehensively for  
7 the future development of West Virginia and to provide  
8 for the efficient management of limited public revenues  
9 for the purpose of promoting the orderly development  
10 of the state, harmonizing the development of the state's  
11 governmental, social, economic, environmental and phy-  
12 sical resources, while maintaining acceptable levels of  
13 public services and facilities toward the end of promot-  
14 ing the general health, safety and welfare of all of its  
15 citizens. The Legislature hereby further finds and de-  
16 clares that problems of growth and development so  
17 transcend the boundary lines of governmental units  
18 that no single unit can plan for their solution with-  
19 out affecting other units of government in the re-

20 gion; that intergovernmental cooperation on a regional  
21 basis is an effective method to approach common plan-  
22 ning and development problems and to seek more efficient  
23 and economical solutions to common problems of local  
24 government.

25 It is, therefore, the purpose of this article to facilitate  
26 intergovernmental cooperation and insure the orderly  
27 and harmonious coordination of state, federal and local  
28 planning and development programs for the solution  
29 of governmental, social, economic, environmental and  
30 physical problems of the state and its citizens, by desig-  
31 nating regions and by providing for the creation of  
32 regional planning and development councils; all being  
33 hereby declared to be public purposes.

**§8-25-2. Definitions.**

1 The following terms, wherever used or referred to  
2 in this article, shall have the following meanings unless  
3 a different meaning clearly appears from the context:

4 (a) "Comprehensive development planning" shall mean  
5 the process of (1) assessing, within a geographic region,  
6 the needs and resources of the region; (2) formulating

7 goals, objectives, policies and standards to guide its long-  
8 range governmental, social, economic, environmental and  
9 physical development; and (3) preparing plans and pro-  
10 grams therefor which (i) identify alternative courses of  
11 action and the spatial and functional relationships among  
12 the activities to be carried out thereunder; (ii) specify  
13 the appropriate ordering in time of such activities; (iii)  
14 take into account other relevant factors affecting the  
15 achievement of the desired development of the area;  
16 and (iv) provide an overall framework and guide for the  
17 preparation of functional and project development plans.

18 Comprehensive planning is hereby defined as a part,  
19 inseparable, of the comprehensive development process.

20 (b) "Development" shall mean the process of imple-  
21 menting, carrying out, effectuating, administering or  
22 otherwise performing the activities, processes, steps or  
23 operations necessary to meet the comprehensive devel-  
24 opment planning goals, objectives, programs and plans  
25 formulated, accepted, adopted or approved as a result  
26 of comprehensive development planning; development  
27 being the logical, sequential and inseparable part of the

28 comprehensive development planning process requisite  
29 to the fruition of such planning.

30 (c) "Region" shall mean a specific geographic area  
31 in which a regional council may exercise authority and  
32 powers in accordance with the provisions of this article.

33 (d) "Regional council" shall mean a regional plan-  
34 ning and development council established pursuant to  
35 the provisions of this article.

**§8-25-3. Delineation of regions; recommendations of governor;  
publication; public hearings; certification; change  
in delineation.**

1 (a) Within sixty days after the effective date of this  
2 article, the governor shall define and recommend for  
3 the purposes of this article, regional boundaries em-  
4 bracing each municipality and county within the state.

5 (b) In delineating boundaries of the regions, the  
6 governor shall consider such factors as the units of  
7 local government shall express by proper resolution,  
8 including community interest and homogeneity; geo-  
9 graphic features and natural boundaries; patterns of  
10 communication and transportation; patterns of ur-

11 ban development; uniformity of social and eco-  
12 nomic problems; special problems; boundaries of ex-  
13 isting metropolitan and other substate planning and  
14 administrative areas; and utility of the proposed  
15 boundaries for efficient provision of governmental  
16 services. Regions must consist of at least two con-  
17 tiguous counties. Municipalities shall not be divided  
18 when forming a region nor shall any county be divided  
19 when forming a region, except insofar as it is necessary  
20 to keep multi-county municipalities in a region.

21 (c) The governor shall, within six months after the  
22 effective date of this article, certify to the secretary  
23 of state the boundaries of each region.

24 (d) Not less than sixty days prior to the certifica-  
25 tion of the boundaries of any region, the governor or  
26 any agency designated by him shall cause a statement  
27 setting forth the counties to be included within the  
28 boundary of the proposed region to be published as a  
29 Class II-O legal advertisement in compliance with the  
30 provisions of article three, chapter fifty-nine of this

31 code, and the publication area for such publication shall  
32 be the proposed region. The governor or such agency  
33 shall forward a copy of the statement to the principal  
34 executive officer or officers of each municipality and  
35 county located within the proposed region.

36 (e) Prior to the time that the governor shall certify  
37 the boundaries of a region, he or such agency shall  
38 conduct at least one public hearing at a convenient place  
39 within the proposed region. The governor or such agency  
40 shall advertise the meeting by means of a Class I-0 legal  
41 advertisement in compliance with the provisions of said  
42 article three, and the publication area for such publica-  
43 tion shall be the proposed region. All public and private  
44 organizations located in and all individuals residing in  
45 municipalities or counties within or adjacent to the pro-  
46 posed region shall be permitted to appear and testify on  
47 matters pertaining to its boundaries.

48 (f) At any time following the certification of the  
49 boundaries of any region, the governor may change such  
50 boundaries, pursuant to the criteria and procedures set  
51 forth in subsections (b), (c), (d) and (e) of this section.



**§8-25-4. Regional councils; organizational meetings; formation; receipt of funds and assistance; effect on existing organizations.**

1 (a) The governor or any agency designated by him  
2 shall provide for an organizational meeting of each of the  
3 regional councils within sixty days after his certification  
4 pursuant to section three of this article. He shall notify  
5 the president of each county court and the mayor or chief  
6 executive officer of each municipality of the region  
7 of the time and place of such meeting. The official so  
8 notified shall attend or shall designate, in the case of  
9 the county court, another member of the court or, in  
10 the case of a municipality, a member of the governing  
11 body of such municipality. Those present shall constitute  
12 a quorum and shall select a temporary chairman and sec-  
13 retary and shall provide for a subsequent meeting or  
14 meetings at which time the members provided for in sec-  
15 tion five of this article shall be nominated and elected and  
16 the permanent organization and bylaws established.

17 (b) Each regional council formed pursuant to this  
18 article shall fulfill the purposes of development regions  
19 and shall be eligible to receive state funds and technical

20 assistance in accordance with the provisions of this ar-  
21 ticle.

22 (c) (1) Nothing herein contained shall in any way  
23 limit or restrict the powers, duties and responsibilities  
24 of planning bodies organized under article twenty-six  
25 of this chapter relating to interstate planning commis-  
26 sions.

27 (2) Interstate planning commissions in existence  
28 on the effective date of this article, at the option of the  
29 county courts of the participating West Virginia coun-  
30 ties, are hereby designated as the planning and develop-  
31 ment councils for the region, insofar as the West Vir-  
32 ginia member counties of such interstate planning  
33 commissions are concerned, and such commissions shall  
34 be empowered to act as the planning and development  
35 councils for such regions insofar as the West Virginia  
36 member counties are concerned.

37 (3) When additional West Virginia counties are  
38 added, under the provisions of this article, to such inter-  
39 state planning commissions, their membership in such  
40 commissions shall comply, insofar as the West Virginia

41 counties are concerned, with the council membership  
42 requirements of this article.

43           (4) Regional councils or commissions estab-  
44 lished under this article and article twenty-six of this  
45 chapter may, at the option of the county courts of the  
46 participating West Virginia counties, continue to have  
47 all the powers, duties and responsibilities permitted and  
48 required under said article twenty-six, in addition to the  
49 powers, duties and responsibilities provided herein for  
50 regional councils.

51           (5) State regional councils or commissions and  
52 their corresponding boundaries in existence on the effec-  
53 tive date of this article, which were established under  
54 the former provisions of this article, and any nonprofit  
55 corporation in existence on the effective date of this  
56 article, which was established under chapter thirty-one  
57 of this code and pursuant to section eighteen, article  
58 five, chapter seven of this code and which has had in  
59 its employ a full-time paid executive staff for a period  
60 of no less than six months immediately prior to the  
61 effective date of this article, shall be designated by the

62 governor as planning and development regions and  
 63 regional councils. Such designation shall be made within  
 64 thirty days after the effective date of this article.  
 65 Regional councils so designated shall have a period of  
 66 six months from the date of designation to comply with  
 67 the membership structure required by this article. Noth-  
 68 ing herein contained shall be construed to deprive such  
 69 existing state regional councils of their legal authority  
 70 prior to the expiration of the aforementioned six month  
 71 period.

**§8-25-5. Regional councils; membership; organization;  
 executive committee.**

1 (a) All Class I, II and III cities and all counties  
 2 shall be represented on the regional council. In the  
 3 event a county has no city, the largest town or village  
 4 in the county shall be represented. Any town or vil-  
 5 lage, except as provided above, shall be represented  
 6 on a regional council unless such town or village enacts  
 7 an ordinance or resolution indicating that said town  
 8 or village does not want to participate, in which event  
 9 said town or village shall not be represented on the

10 council or required to participate in any such activities.  
11 The county representative shall be the president of the  
12 county court or a member of the county court desig-  
13 nated by him. The municipal representative shall be  
14 the mayor or a member of the governing body desig-  
15 nated by him. The number of members of the re-  
16 gional council by virtue of this subsection shall com-  
17 prise not less than fifty-one percent of the total number  
18 of members.

19 (b) Regional council members serving by virtue of  
20 subsection (a) of this section shall select additional mem-  
21 bers to serve on the council to represent principal com-  
22 munity or regional interests, including, but not limited  
23 to, commerce, industry, labor, agriculture, education,  
24 health and any such interests as may be required by fed-  
25 eral law or regulations. The selection of such members  
26 shall also provide for reasonable representation of geo-  
27 graphic, economic and ethnic groups without exclusion of  
28 significant minority groups. Subsequent changes in desig-  
29 nation of representatives shall be determined by the reg-  
30 ional council. The number of members serving by virtue

31 of this subsection shall not exceed forty-nine percent of  
32 the total number of members.

33 (c) Each regional council shall select from its mem-  
34 bership a chairman, who shall preside at each council  
35 meeting, and an executive committee, which shall be com-  
36 prised of one representative from each county court and  
37 one representative from the largest municipality within  
38 each county in the region, and such other members as the  
39 aforesaid representatives may select. The executive com-  
40 mittee shall perform such administrative duties as are  
41 prescribed by the regional council in its bylaws and shall  
42 exercise the review function as provided for in section  
53 eight of this article. Each regional council may further  
54 provide for such other officers as it shall deem necessary  
55 and may establish other committees which may include  
56 citizens who are not regional council members.

57 (d) The regional council shall establish personnel  
58 rules and shall appoint a director who shall be qualified  
59 by reason of training and experience. The director shall  
60 be empowered to appoint and remove other employees in  
61 accordance with the regional council's personnel rules.

62 He may, with the approval of the executive committee,  
63 enter into agreements with governmental agencies within  
64 the region for the use of personnel, equipment and fa-  
65 cilities; and he may, with the approval of the executive  
66 committee, contract for professional or consultant services  
67 from other governmental and private agencies.

**§8-25-6. Contracts.**

1 Each regional council is empowered and authorized to  
2 contract for services of consultants to perform planning,  
3 development, engineering, legal or other services of a pro-  
4 fessional, specialized or technical nature. Such contracts  
5 shall not be subject to any law relating to public bidding:  
6 *Provided*, That every contract of the council for the pur-  
7 chase of merchandise, materials or supplies in the amount  
8 of one thousand dollars or more shall be let to the lowest  
9 responsible bidder after notice requesting such bids has  
10 been published as a Class II-0 legal advertisement in com-  
11 pliance with the provisions of article three, chapter  
12 fifty-nine of this code, and the publication area for such  
13 publication shall be the region.

**§8-25-7. Powers and duties of regional councils generally.**

1 The regional council may:

2 (a) Continuously engage in comprehensive planning

3 and development processes, and prepare and from time

4 to time revise, amend, extend or add to, a plan or plans

5 for the development of the region consistent with any

6 state comprehensive planning and development objec-

7 tives and reflecting plans and programs of the participat-

8 ing governmental units. Any such plan or plans shall be

9 based on studies of governmental, social, economic, enviro-

10 nmental and physical conditions and trends, and shall

11 aim at the coordinated development of the region in

12 order to promote the general health, welfare, convenience

13 and prosperity of its people. Such plan or plans, or parts

14 thereof, shall be prepared by persons appropriately quali-

15 fied under state statutes dealing with the applicable pro-

16 fession or occupation. Such plan or plans shall be sub-

17 mitted for review to the appropriate agencies in accord-

18 ance with the provisions of this article. The plan or plans

19 shall embody the policy recommendations of the regional

20 council, and may include, but shall not be limited to: (1)



21 A statement of goals, objectives, standards and principles  
22 sought to be expressed in the plan or plans to guide  
23 economic, social, environmental and human resource de-  
24 velopment; (2) recommendations for transportation net-  
25 works in the region, including land, water and air trans-  
26 portation, and for communication facilities; (3) recom-  
27 mendations concerning the need for and proposed gen-  
28 eral location of public and private works and facilities,  
29 which by reason of their function, size, extent or for any  
30 other cause are of a regional, as distinguished from a  
31 purely local concern; and (4) recommendations for the  
32 long-range programming and financing of capital projects  
33 and facilities.

34 (b) Prepare and from time to time revise, amend, ex-  
35 tend or add to, a regional development program to imple-  
36 ment the policies contained in the comprehensive de-  
37 velopment plan for the region. The program shall contain  
38 a listing of development projects and programs, priorities  
39 for the financing of these projects and programs and  
40 recommended methods for project and program financing.

41 (c) Prepare and recommend ordinances, rules and

42 regulations which would implement regional and local  
43 plans.

44 (d) Prepare and publish studies of the region's re-  
45 sources, both natural and human, with respect to exist-  
46 ing and emerging problems of industry, commerce, trans-  
47 portation, population, housing, agriculture, environment,  
48 public service, local governments and any other matters  
49 which are relevant to regional planning.

50 (e) Collect, process and analyze the social and eco-  
51 nomic statistics for the region which are necessary to  
52 planning studies, and make the results of such collection,  
53 processing and analysis available to the general public.

54 (f) Participate with other governmental agencies, edu-  
55 cational institutions and private organizations in the co-  
56 ordination of the regional research and educational ac-  
57 tivities described in subdivisions (d), (e) and (h) of this  
58 section.

59 (g) Cooperate with, and provide, upon request,  
60 planning and technical assistance to, municipalities, coun-  
61 ties and planning and development agencies within the  
62 region, and coordinate regional planning with the plan-

63 ning activities and plans of the state and of the municipal-  
64 ities and counties within the region, as well as neighbor-  
65 ing areas, including those in adjoining states, and the  
66 programs of federal departments and agencies.

67 (h) Provide information to officials, departments,  
68 agencies and instrumentalities of the federal, state and  
69 local governments and to the public at large, in order to  
70 foster public awareness and understanding of the objec-  
71 tives of the regional plans and the functions of the reg-  
72 ional and local planning and development, and to stimu-  
73 late public interest and participation in the orderly, inte-  
74 grated development of the region.

75 (i) Apply for, accept and expend funds and grants  
76 provided for the purposes hereof by the government of  
77 the United States or its departments or agencies; by de-  
78 partments and agencies of the state or any other state;  
79 by one or more municipalities, counties or other political  
80 subdivisions of this state or of any other state; or by any  
81 other agency, public or private; or from any individual  
82 whose interests are in harmony with the purposes hereof,

83 including planning councils and commissions, all in ac-  
 84 cordance with any federal requirements and subject to  
 85 any conditions or limitations of the constitution or laws  
 86 of this state.

87 (j) Perform development on a regional basis as neces-  
 88 sary to undertake, complete or accomplish the goals and  
 89 purposes of comprehensive planning in the region by in-  
 90 tergovernmental contract or joint enterprises, or both,  
 91 with local governmental units or combinations of such  
 92 units pursuant to article twenty-three of this chapter.

93 (k) Exercise powers jointly or in cooperation with  
 94 agencies or political subdivisions of the state of West Vir-  
 95 ginia or any other state, or with agencies of the United  
 96 States, subject to statutory provisions applicable to in-  
 97 terjurisdictional agreements.

98 (l) Adopt bylaws and such other rules and regulations  
 99 as may be necessary to effectuate the purposes of this  
 100 article.

101 (m) Exercise all other powers and authority necessary  
 102 and proper for the discharge of its duties.

**§8-25-8. Review.**

1 Each regional council shall review all applications  
2 of governmental units or independent agencies within  
3 the region for loans or grants from the federal govern-  
4 ment or any of its agencies or the state of West Vir-  
5 ginia or any of its agencies. All recommendations  
6 and comments on applications for the aforemen-  
7 tioned funding programs shall be forwarded to  
8 the governor's office or such agency as is designated  
9 by the governor. Each council shall establish and main-  
10 tain a clearinghouse for the purpose of establishing re-  
11 quired review procedures in compliance with the "Inter-  
12 governmental Cooperation Act of 1968 (Public Law  
13 90-557)," and "Demonstration Cities and Metropolitan De-  
14 velopment Act of 1966 (Public Law 87-754)," and the  
15 rules and regulations pertaining thereto, as promulgated  
16 by the United States office of management and budget.  
17 The state review agency designated by the governor shall  
18 inform regional councils of state review findings relating  
19 to applications submitted from within the jurisdiction of  
20 each council.

**§8-25-9. Cooperation with and by other planning agencies or development agencies or both, governmental units and officials.**

1 To effectuate the purposes of this article, regional coun-  
2 cils shall cooperate with planning agencies or develop-  
3 ment agencies within the region or within other regions,  
4 with the governing bodies and administrative officials  
5 of any municipality, county or any other political sub-  
6 division, including those in other states, or with any  
7 other entity, private or public, whose interests are in  
8 harmony with the purposes of this article, in order to  
9 coordinate and harmonize planning and development for  
10 the cooperating units. All state departments and agencies  
11 shall cooperate with regional councils established under  
12 this article and shall make available to them studies,  
13 reports, data and other informational and technical as-  
14 sistance within financial and personnel limitations. Such  
15 regional council may appoint such committees and may  
16 adopt such rules and regulations as may be proper to  
17 effect such coordination and integration. The governing  
18 bodies and administrative officials of municipalities,  
19 county and other political subdivisions within this state

20 are hereby empowered and authorized to cooperate with  
21 such planning and development agencies and with the  
22 governing bodies and administrative officials of politi-  
23 cal subdivisions and planning and development agencies  
24 in other states for the purpose of such coordination and  
25 integration in accordance with the provisions of this  
26 article.

**§8-25-10. Citizens' participation and advisory committees.**

1 Each regional council may appoint advisory committees  
2 of interested and affected citizens to assist in the review  
3 of plans, programs and other purposes of this article re-  
4 ferred for review by the regional council. Whenever a  
5 special advisory committee is required by any federal  
6 or state regional program, the regional council chairman  
7 shall, with approval of the executive committee, appoint  
8 such committees as advisory groups to the regional council.

**§8-25-11. Annual budget; depositories; expenditures; appro-  
priations.**

1 (a) Each regional council shall adopt an annual budget,  
2 to be submitted to the participating governmental units  
3 which shall each contribute to the financing of the council

4 according to a formula adopted by the council and ap-  
5 proved by a majority of the counties and a majority of  
6 the municipalities participating in the regional council.  
7 All such contributions shall be fair and equitable and  
8 shall be based on the population of each participating  
9 governmental unit as determined on the basis of the latest  
10 decennial census. Each participating county and munici-  
11 pality is hereby directed and empowered to pay over and  
12 contribute to the operation of said councils in accordance  
13 with the formula adopted as hereinbefore provided.  
14 Such sums, as are appropriated hereunder, may be trans-  
15 ferred to the regional councils for deposit and disburse-  
16 ment as the regional councils may designate and direct.  
17 By such transfer, the governing body designates the reg-  
18 ional council as its disbursing agent.

**§8-25-12. Annual report.**

1 On or before July thirty-first of each year, the regional  
2 council shall prepare an annual report. The regional  
3 council shall submit copies of the report to the participat-  
4 ing governmental units and to the office of the governor



5 or such agency as the governor may designate: The re-  
6 port shall include the following:

7 (a) A consolidated statement of the regional council's  
8 receipts and expenditures by category since the preceding  
9 report.

10 (b) A consolidated, detailed regional council budget for  
11 the year in which the report is filed and the following  
12 year including an outline of its program for such period.

13 (c) A description of any comprehensive plan adopted  
14 in whole or in part for the region.

15 (d) Summaries of any studies, development progress  
16 and the recommendations resulting therefrom made for  
17 the region.

18 (e) A listing of all applications for federal grants or  
19 loans made by the governmental units within the region  
20 together with the action taken by the regional council  
21 in relation thereto.

22 (f) A listing of plans of local governmental units sub-  
23 mitted to the region and actions taken in relation thereto.

24 (g) Recommendations of the regional council regarding

25 federal and state programs, cooperation, funding and leg-  
26 islative needs.

**§8-25-13. Construction.**

1 The provisions of this article shall be liberally con-  
2 strued to accomplish its objectives and purposes.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Quinn T. Bull  
Chairman Senate Committee

Shyllis J. Rutledge  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Myers  
Clerk of the Senate

A. Blankenship  
Clerk of the House of Delegates

E. Hans McCourt  
President of the Senate

Lewis N. McMonus  
Speaker House of Delegates

The within disapproved this the 1<sup>st</sup>  
day of April, 1971.

Arch A. Moore Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/24/71

Time 1:47 p.m.