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
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 result of changes in the economy, population shifts, new transportation demands and increasing demands for public services, and as a result of increasing complexity in government programs and added demands on public revenues, there is a need to plan comprehensively for the future development of West Virginia and to provide for the efficient management of limited public revenues for the purpose of promoting the orderly development of the state, harmonizing the development of the state's governmental, social, economic, environmental and physical resources, while maintaining acceptable levels of public services and facilities toward the end of promoting the general health, safety and welfare of all of its citizens. The Legislature hereby further finds and declares that problems of growth and development so transcend the boundary lines of governmental units that no single unit can plan for their solution without 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.


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

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

(b) "Development" shall mean the process of implementing, carrying out, effectuating, administering or otherwise performing the activities, processes, steps or operations necessary to meet the comprehensive development planning goals, objectives, programs and plans formulated, accepted, adopted or approved as a result of comprehensive development planning; development being the logical, sequential and inseparable part of the
comprehensive development planning process requisite
to the fruition of such planning.

c) "Region" shall mean a specific geographic area
in which a regional council may exercise authority and
powers in accordance with the provisions of this article.
(d) "Regional council" shall mean a regional plan-
ning and development council established pursuant to
the provisions of this article.

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

(a) Within sixty days after the effective date of this
article, the governor shall define and recommend for
the purposes of this article, regional boundaries em-
bracing each municipality and county within the state.
(b) In delineating boundaries of the regions, the
governor shall consider such factors as the units of
local government shall express by proper resolution,
including community interest and homogeneity; geo-
graphic features and natural boundaries; patterns of
communication and transportation; patterns of ur-
ban development; uniformity of social and economic problems; special problems; boundaries of existing metropolitan and other substatute planning and administrative areas; and utility of the proposed boundaries for efficient provision of governmental services. Regions must consist of at least two contiguous counties. Municipalities shall not be divided when forming a region nor shall any county be divided when forming a region, except insofar as it is necessary to keep multi-county municipalities in a region.

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

(d) Not less than sixty days prior to the certification of the boundaries of any region, the governor or any agency designated by him shall cause a statement setting forth the counties to be included within the boundary of the proposed region to be published as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this
71 code, and the publication area for such publication shall
72 be the proposed region. The governor or such agency
73 shall forward a copy of the statement to the principal
74 executive officer or officers of each municipality and
75 county located within the proposed region.
76 (e) Prior to the time that the governor shall certify
77 the boundaries of a region, he or such agency shall
78 conduct at least one public hearing at a convenient place
79 within the proposed region. The governor or such agency
80 shall advertise the meeting by means of a Class I-0 legal
81 advertisement in compliance with the provisions of said
82 article three, and the publication area for such publica-
83 tion shall be the proposed region. All public and private
84 organizations located in and all individuals residing in
85 municipalities or counties within or adjacent to the pro-
86 posed region shall be permitted to appear and testify on
87 matters pertaining to its boundaries.
88 (f) At any time following the certification of the
89 boundaries of any region, the governor may change such
90 boundaries, pursuant to the criteria and procedures set
91 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.

(a) The governor or any agency designated by him shall provide for an organizational meeting of each of the regional councils within sixty days after his certification pursuant to section three of this article. He shall notify the president of each county court and the mayor or chief executive officer of each municipality of the region of the time and place of such meeting. The official so notified shall attend or shall designate, in the case of the county court, another member of the court or, in the case of a municipality, a member of the governing body of such municipality. Those present shall constitute a quorum and shall select a temporary chairman and secretary and shall provide for a subsequent meeting or meetings at which time the members provided for in section five of this article shall be nominated and elected and the permanent organization and bylaws established.

(b) Each regional council formed pursuant to this article shall fulfill the purposes of development regions and shall be eligible to receive state funds and technical
assistance in accordance with the provisions of this article.

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

(2) Interstate planning commissions in existence on the effective date of this article, at the option of the county courts of the participating West Virginia counties, are hereby designated as the planning and development councils for the region, insofar as the West Virginia member counties of such interstate planning commissions are concerned, and such commissions shall be empowered to act as the planning and development councils for such regions insofar as the West Virginia member counties are concerned.

(3) When additional West Virginia counties are added, under the provisions of this article, to such interstate planning commissions, their membership in such commissions shall comply, insofar as the West Virginia
41 counties are concerned, with the council membership
42 requirements of this article.
43
44 (4) Regional councils or commissions estab-
45 lished under this article and article twenty-six of this
46 chapter may, at the option of the county courts of the
47 participating West Virginia counties, continue to have
48 all the powers, duties and responsibilities permitted and
49 required under said article twenty-six, in addition to the
50 powers, duties and responsibilities provided herein for
51 regional councils.

52 (5) State regional councils or commissions and
53 their corresponding boundaries in existence on the effec-
54 tive date of this article, which were established under
55 the former provisions of this article, and any nonprofit
56 corporation in existence on the effective date of this
57 article, which was established under chapter thirty-one
58 of this code and pursuant to section eighteen, article
59 five, chapter seven of this code and which has had in
60 its employ a full-time paid executive staff for a period
61 of no less than six months immediately prior to the
62 effective date of this article, shall be designated by the
governor as planning and development regions and
regional councils. Such designation shall be made within
thirty days after the effective date of this article.
Regional councils so designated shall have a period of
six months from the date of designation to comply with
the membership structure required by this article. Noth-
ing herein contained shall be construed to deprive such
existing state regional councils of their legal authority
prior to the expiration of the aforementioned six month
period.

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

(a) All Class I, II and III cities and all counties
shall be represented on the regional council. In the
event a county has no city, the largest town or village
in the county shall be represented. Any town or vil-
lage, except as provided above, shall be represented
on a regional council unless such town or village enacts
an ordinance or resolution indicating that said town
or village does not want to participate, in which event
said town or village shall not be represented on the
The county representative shall be the president of the county court or a member of the county court designated by him. The municipal representative shall be the mayor or a member of the governing body designated by him. The number of members of the regional council by virtue of this subsection shall comprise not less than fifty-one percent of the total number of members.

(b) Regional council members serving by virtue of subsection (a) of this section shall select additional members to serve on the council to represent principal community or regional interests, including, but not limited to, commerce, industry, labor, agriculture, education, health and any such interests as may be required by federal law or regulations. The selection of such members shall also provide for reasonable representation of geographic, economic and ethnic groups without exclusion of significant minority groups. Subsequent changes in designation of representatives shall be determined by the regional council. The number of members serving by virtue
of this subsection shall not exceed forty-nine percent of
the total number of members.

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

(d) The regional council shall establish personnel
rules and shall appoint a director who shall be qualified
by reason of training and experience. The director shall
be empowered to appoint and remove other employees in
accordance with the regional council's personnel rules.
He may, with the approval of the executive committee, enter into agreements with governmental agencies within the region for the use of personnel, equipment and facilities; and he may, with the approval of the executive committee, contract for professional or consultant services from other governmental and private agencies.

§8-25-6. Contracts.

1 Each regional council is empowered and authorized to contract for services of consultants to perform planning, development, engineering, legal or other services of a professional, specialized or technical nature. Such contracts shall not be subject to any law relating to public bidding:

Provided, That every contract of the council for the purchase of merchandise, materials or supplies in the amount of one thousand dollars or more shall be let to the lowest responsible bidder after notice requesting such bids has been published as a Class II-0 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 region.

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, envi-
10 ronmental 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)
A statement of goals, objectives, standards and principles sought to be expressed in the plan or plans to guide economic, social, environmental and human resource development; (2) recommendations for transportation networks in the region, including land, water and air transportation, and for communication facilities; (3) recommendations concerning the need for and proposed general location of public and private works and facilities, which by reason of their function, size, extent or for any other cause are of a regional, as distinguished from a purely local concern; and (4) recommendations for the long-range programming and financing of capital projects and facilities.

(b) Prepare and from time to time revise, amend, extend or add to, a regional development program to implement the policies contained in the comprehensive development plan for the region. The program shall contain a listing of development projects and programs, priorities for the financing of these projects and programs and recommended methods for project and program financing.

(c) Prepare and recommend ordinances, rules and
regulations which would implement regional and local plans.

(d) Prepare and publish studies of the region's resources, both natural and human, with respect to existing and emerging problems of industry, commerce, transportation, population, housing, agriculture, environment, public service, local governments and any other matters which are relevant to regional planning.

(e) Collect, process and analyze the social and economic statistics for the region which are necessary to planning studies, and make the results of such collection, processing and analysis available to the general public.

(f) Participate with other governmental agencies, educational institutions and private organizations in the coordination of the regional research and educational activities described in subdivisions (d), (e) and (h) of this section.

(g) Cooperate with, and provide, upon request, planning and technical assistance to, municipalities, counties and planning and development agencies within the 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,
including planning councils and commissions, all in accordance with any federal requirements and subject to any conditions or limitations of the constitution or laws of this state.

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

(k) Exercise powers jointly or in cooperation with agencies or political subdivisions of the state of West Virginia or any other state, or with agencies of the United States, subject to statutory provisions applicable to interjurisdictional agreements.

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

(m) Exercise all other powers and authority necessary and proper for the discharge of its duties.
§8-25-8. Review.

1 Each regional council shall review all applications of governmental units or independent agencies within the region for loans or grants from the federal government or any of its agencies or the state of West Virginia or any of its agencies. All recommendations and comments on applications for the aforementioned funding programs shall be forwarded to the governor's office or such agency as is designated by the governor. Each council shall establish and maintain a clearinghouse for the purpose of establishing required review procedures in compliance with the "Inter-governmental Cooperation Act of 1968 (Public Law 90-557)," and "Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 87-754)," and the rules and regulations pertaining thereto, as promulgated by the United States office of management and budget.

2 The state review agency designated by the governor shall inform regional councils of state review findings relating to applications submitted from within the jurisdiction of each council.
§8-25-9. Cooperation with and by other planning agencies or development agencies or both, governmental units and officials.

To effectuate the purposes of this article, regional councils shall cooperate with planning agencies or development agencies within the region or within other regions, with the governing bodies and administrative officials of any municipality, county or any other political subdivision, including those in other states, or with any other entity, private or public, whose interests are in harmony with the purposes of this article, in order to coordinate and harmonize planning and development for the cooperating units. All state departments and agencies shall cooperate with regional councils established under this article and shall make available to them studies, reports, data and other informational and technical assistance within financial and personnel limitations. Such regional council may appoint such committees and may adopt such rules and regulations as may be proper to effect such coordination and integration. The governing bodies and administrative officials of municipalities, county and other political subdivisions within this state
are hereby empowered and authorized to cooperate with such planning and development agencies and with the governing bodies and administrative officials of political subdivisions and planning and development agencies in other states for the purpose of such coordination and integration in accordance with the provisions of this article.

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

Each regional council may appoint advisory committees of interested and affected citizens to assist in the review of plans, programs and other purposes of this article referred for review by the regional council. Whenever a special advisory committee is required by any federal or state regional program, the regional council chairman shall, with approval of the executive committee, appoint such committees as advisory groups to the regional council.

§8-25-11. Annual budget; depositories; expenditures; appropriations.

(a) Each regional council shall adopt an annual budget, to be submitted to the participating governmental units which shall each contribute to the financing of the council
according to a formula adopted by the council and approved by a majority of the counties and a majority of the municipalities participating in the regional council. All such contributions shall be fair and equitable and shall be based on the population of each participating governmental unit as determined on the basis of the latest decennial census. Each participating county and municipality is hereby directed and empowered to pay over and contribute to the operation of said councils in accordance with the formula adopted as hereinbefore provided.

Such sums, as are appropriated hereunder, may be transferred to the regional councils for deposit and disbursement as the regional councils may designate and direct. By such transfer, the governing body designates the regional council as its disbursing agent.


On or before July thirty-first of each year, the regional council shall prepare an annual report. The regional council shall submit copies of the report to the participating governmental units and to the office of the governor
or such agency as the governor may designate: The report shall include the following:

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

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

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

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

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

(f) A listing of plans of local governmental units submitted to the region and actions taken in relation thereto.

(g) Recommendations of the regional council regarding
25 federal and state programs, cooperation, funding and legis-
26 lative needs.


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.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within bill passed this the 1st day of April, 1971.

Governor
PRESENTED TO THE GOVERNOR

Date 3/24/71
Time 1:47 p.m.