

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972



ENROLLED

HOUSE BILL No. 1057

(By Mr. Smirl & Mr. Richardson)



PASSED March 11 1972

In Effect 90 days from Passage



FILED IN THE OFFICE  
JOHN D. ROCKEFELLER, II  
SECRETARY OF STATE

THIS DATE 3-29-72

1057  
6501

ENROLLED

House Bill No. 1057

(By MRS. SMIRL and MR. RICHARDSON)

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[Passed March 11, 1972; in effect ninety days from passage.]

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AN ACT to amend and reenact section three, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the power and authority of any municipality to contract for the prevention and extinguishment of fires within three miles of its corporate limits; and relating to the annual payments to be made by property owners for such contract fire service.

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

That section three, article fifteen, 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 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.**

**§8-15-3. Municipalities empowered and authorized to contract for the prevention and extinguishment of fires within three miles of corporate limits.**

- 1 (a) Any municipality shall have plenary power and
- 2 authority to contract to render services in the prevention
- 3 and extinguishment of fires upon property located with-
- 4 in three miles of its corporate limits: *Provided, That*
- 5 no contract entered into under the authority of this
- 6 section shall operate to impose any greater or different

7 obligation or liability upon the municipality than that  
8 with respect to property within its corporate limits:  
9 *Provided, however,* That nothing contained in this sec-  
10 tion shall be construed as requiring any municipality  
11 to contract to render such services.

12 Any contract entered into under the authority of this  
13 section, after the effective date of this article, on and after  
14 such effective date shall require the property owner to  
15 pay as consideration for said services an annual payment,  
16 determined as provided in the remainder of this subsec-  
17 tion. If the municipality does not impose a fire service fee  
18 on the users of such service within the municipality as  
19 authorized in section thirteen, article thirteen of this  
20 chapter, the annual payment shall be equivalent to eighty  
21 percent of the annual tax levied for current municipal  
22 purposes upon property within said municipality of like  
23 assessed valuation to the property under contract. If the  
24 municipality does impose a fire service fee on the users of  
25 such service within the municipality, as authorized in sec-  
26 tion thirteen, article thirteen of this chapter, the annual  
27 payment shall be equivalent to the amount of fire service  
28 fee which would be imposed if the property under con-  
29 tract were located within the municipality plus at least  
30 fifty percent of the annual tax levied for current municipal  
31 purposes upon property within said municipality of like  
32 assessed valuation to the property under contract. No  
33 contract entered into under the authority of this sec-  
34 tion, and nothing herein contained, shall be construed  
35 as requiring or permitting any municipality to install  
36 or maintain any special additional apparatus or equip-  
37 ment beyond that necessary for the protection of prop-  
38 erty within its corporate limits.

39 (b) The annual payments due under any such con-  
40 tract shall be payable on or before the first day of Octo-  
41 ber of each calendar year in which such contract shall  
42 remain in effect, or upon such day as may be hereafter  
43 provided as the due date of the first installment of ad-  
44 valorem taxes. If any annual payment shall be in de-  
45 fault for a period of more than thirty days it shall bear  
46 interest at the same rate as that provided for delinquent  
47 property taxes, and shall be a lien upon the property

48 under contract, provided a notice of such lien is recorded  
49 in the proper deed of trust book in the office of the  
50 clerk of the county court of the county in which such  
51 property or the major portion thereof is located. Such  
52 lien shall be void at the expiration of two years after  
53 such defaulted annual payment shall have become due,  
54 unless within such two-year period a civil action seeking  
55 equitable relief to enforce the same shall have been in-  
56 stituted by said municipality. The municipality may by  
57 civil action collect any annual payment and the interest  
58 thereon at any time within five years after such pay-  
59 ment shall have become due; and upon default in any  
60 annual payment, the municipality may cancel the con-  
61 tract involved.

62 (c) Any contract made under the authority of this  
63 section shall inure to the benefit of and be binding upon  
64 the successors in title of the person making the same;  
65 and such person, upon conveying the property subject  
66 to such contract, shall no longer be liable under such  
67 contract, except as to annual payments due prior to said  
68 conveyance and remaining unpaid.

69 (d) Any property owner may cancel any such con-  
70 tract with respect to the property of such owner upon  
71 giving a thirty-day written notice to the municipality,  
72 if such owner is not in default with respect to any  
73 annual payment due thereunder, except that if such no-  
74 tice be given subsequent to July first of any calendar  
75 year, the next succeeding annual payment shall be made  
76 by said property owner as soon as the amount thereof  
77 is ascertainable. Upon cancellation as aforesaid, the  
78 municipality shall deliver to the property owner a re-  
79 cordable release discharging such owner and such prop-  
80 erty from any further lien or obligation with respect to  
81 said annual payments. The annual payments due under  
82 any such contract shall be made to such officials as the  
83 municipality, in such contract, shall designate to receive  
84 them, who shall likewise have authority to receive notice  
85 of cancellation, and execute upon behalf of such mu-  
86 nicipality the release for which provision is hereinbefore  
87 made.

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

*Russell G. Beall*  
Chairman Senate Committee

*Hughes J. Rutledge*  
Chairman House Committee

Originated in the House.

In effect ninety days from passage.

*Howard Roberson*  
Clerk of the Senate

*C. A. Blankenship*  
Clerk of the House of Delegates

*E. G. B. B. B.*  
President of the Senate

*Leah J. McManis*  
Speaker House of Delegates

The within *approved* this the *27th*  
day of *March*, 1972.

*Arthur A. Hanes Jr.*  
Governor



RECEIVED

DATE 3/17/72

TIME 1:00 p.m.

MAR 29 9 25 AM '72

OFFICE OF  
SECRETARY OF STATE  
STATE OF WEST VIRGINIA