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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1975



ENROLLED

SENATE BILL NO. 378

(By Mr. Huffman.....)



PASSED February 26,..... 1975

In Effect July 1, 1975 ~~Passage~~



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ENROLLED

Senate Bill No. 378

(By MR. HUFFMAN)

[Passed February 26, 1975; in effect July 1, 1975.]

AN ACT to amend chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fifteen, relating to establishing the "Emergency Ambulance Service Act of 1975"; giving certain legislative findings, a certain declaration of policy and certain definitions; imposing upon county commissions a certain duty to provide emergency ambulance service; giving county commissions certain powers with respect thereto; empowering a county commission to impose and collect a certain special emergency ambulance service fee; authorizing the creation of certain authorities for the provision of emergency ambulance service and making the authorities public corporations; vesting the management of an authority in a certain board; relating to a certain vote of members and certain vacancies; providing for the compensation and reimbursement of expenses of members; relating to certain board meetings, quorums, officers, employees and bonds; making the records of an authority public records; requiring a certain majority vote; relating to a certain budget; giving certain general powers and duties to an authority; providing for certain contributions to authorities; relating to certain funds, accounts and reports of authorities; providing for a certain audit by the state tax department; providing that the public service commission shall not regulate any aforesaid emergency ambulance service; giving a certain exemption of taxation; relating to a certain indebt-

edness of authorities and certain conflicts of interest; providing for certain competitive bids and the publication of certain solicitations; and relating to a certain liberal construction and severability.

Be it enacted by the Legislature of West Virginia:

That chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article fifteen, to read as follows:

ARTICLE 15. EMERGENCY AMBULANCE SERVICE ACT OF 1975.

§7-15-1. Short title.

1 This article shall be known and may be cited as the
2 "Emergency Ambulance Service Act of 1975."

§7-15-2. Legislative findings and declaration of policy.

1 The Legislature hereby finds and declares:

2 (a) That a significant part of the population of this
3 state does not have adequate emergency ambulance
4 service;

5 (b) That the establishment and maintenance of ade-
6 quate emergency ambulance systems for the entire state
7 is necessary to promote the health and welfare of the
8 citizens and residents of this state;

9 (c) That emergency ambulance service is not likely
10 to become available to all the citizens and residents of
11 this state unless specific requirements therefor are
12 provided by law;

13 (d) That emergency ambulance service is a public
14 purpose and a responsibility of government for which
15 public money may be spent; and

16 (e) This article is enacted in view of these findings
17 and shall be liberally construed in the light thereof.

§7-15-3. Definitions.

1 As used in this article, unless a different meaning ap-
2 pears from the context:

3 (a) "Authority" means any emergency ambulance
4 service authority created pursuant to the provisions of
5 this article;

6 (b) "Board" means the board of any emergency am-
7 bulance service authority;

8 (c) "Contiguous counties" means two or more coun-
9 ties which constitute a compact territorial unit within
10 an unbroken boundary wherein one county touches at
11 least one other county, but does not require that each
12 county touch all of the other counties so combining;

13 (d) "Facilities and equipment" means all real and
14 personal property of every kind and character owned
15 or held by any emergency ambulance service author-
16 ity;

17 (e) "Participating government" means any munici-
18 pality or county establishing or participating in an emer-
19 gency ambulance service authority;

20 (f) "Project" means any undertaking of an authority;

21 (g) "Revenues" means the gross receipts derived
22 directly or indirectly from or in connection with the
23 operation by an authority and shall include, without
24 limitation, all fees, rates, fares, rentals or other income
25 actually received or receivable by or for the account of
26 an authority from the operation of the authority's fa-
27 cilities and equipment, and any other receipts from what-
28 ever source derived;

29 (h) "Service area of the authority" means and in-
30 cludes an area commensurate with the territorial bound-
31 aries of each participating government and beyond to
32 the extent permitted by any agreement with any county
33 or municipality which is not a participating government
34 in the project;

35 (i) "System" means any emergency ambulance serv-
36 ice provided pursuant to the provisions of this article;
37 and

38 (j) The singular shall include the plural and the
39 plural shall include the singular.

**§7-15-4. Duty of county commissions to provide emergency
ambulance service; emergency ambulance service
authorities authorized; authorities to be public cor-
porations.**

1 Except as hereinafter provided and in addition to all
2 other duties imposed upon it by law, the county com-
3 mission shall cause emergency ambulance service to be

4 made available to all the residents of the county where
5 such service is not otherwise available: *Provided, how-*
6 *ever,* That the duty imposed upon county commissions
7 by this article shall not be construed in such manner
8 as to impose a duty to cause such emergency ambulance
9 service to be provided unless the commission shall make
10 an affirmative determination that there are funds avail-
11 able therefor by the inclusion of a projected expendi-
12 ture for such purpose in the current levy estimate, and
13 in the event that such county commission shall make
14 such determination the commission shall not be under
15 a duty to cause such service to be provided beyond a
16 level commensurate with the amount of funds actually
17 available for such purpose.

18 The county commission may provide the service di-
19 rectly through its agents, servants and employees; or
20 through private enterprise; or by its designees; or by
21 contracting with individuals, groups, associations, cor-
22 porations or otherwise; or it may cause such services to be
23 provided by an authority, as provided for in this ar-
24 ticle; and any municipality or county, or both, or
25 any two or more municipalities within any county or
26 contiguous counties, or any two or more contiguous
27 counties, or any combination thereof, may create an au-
28 thority. Such authority shall be created upon the adop-
29 tion, by the governing body of each participating gov-
30 ernment, acting individually, of an appropriate ordinance
31 or order. Each authority shall constitute a public cor-
32 poration, and as such, shall have perpetual existence.
33 The authority shall be known by such name as may be
34 established by the board.

**§7-15-5. Management of authority vested in board; eligibility,
appointment, number and term of members; vote
of members; vacancies.**

1 The management and control of any authority, its
2 operations, business and affairs shall be lodged in a board
3 of not less than five nor more than fifteen individuals
4 who shall be known as members of the board and who
5 shall be appointed for terms of three years each by the
6 governing bodies of the participating governments. Prior

7 to making the initial appointments to the board, the gov-
8 erning bodies of the participating governments shall
9 agree to make such initial appointments so that approxi-
10 mately one third of the total number of the members to
11 be so appointed shall be appointed for a term of one year,
12 approximately one third of such total number of the
13 members shall be appointed for a term of two years and
14 approximately one third of such total number of the
15 members shall be appointed for a term of three years.
16 As the term of each such initial appointee expires, the
17 successor to fill the vacancy created by such expired term
18 shall be appointed for a term of three years. The number
19 of members representing each participating government
20 shall be as agreed upon from time to time by the govern-
21 ing bodies of the participating governments. Each member
22 of the board shall have one vote on all matters coming
23 before it. Any individual who is a resident of, or member
24 of the governing body of any participating government
25 is eligible to serve as a member of the board. The govern-
26 ing body of each participating government shall inform
27 the authority of its appointments or reappointments to
28 the board by delivering to the authority a certified copy
29 of the ordinance or order making the appointment or
30 reappointment. If any member of the board dies, resigns
31 or for any other reason ceases to be a member of the
32 board, the governing body of the participating government
33 which such member represented shall appoint another
34 individual to fill the unexpired portion of the term of
35 such member.

§7-15-6. Compensation of members; expenses.

1 As compensation for his services on the board, each
2 member shall receive from the authority the sum of not
3 more than twenty dollars for each meeting actually at-
4 tended, as may be determined by the board. The total
5 compensation paid to any member by the authority for
6 any fiscal year shall not exceed in the aggregate the sum
7 of six hundred dollars. Each member shall also be reim-
8 bursed by the authority for all reasonable and necessary
9 expenses actually incurred in the discharge of his duties
10 as a member of the board.

§7-15-7. Meetings of authority; officers; employees; official bonds; records of authority public records.

1 At its first meeting, to be held no later than sixty days
2 from the creation of the authority as provided in this
3 article, the board shall elect from among its membership
4 a president to act during the next ensuing fiscal year, or
5 until his successor is elected and qualified. At that time,
6 the board shall also elect a vice president, a secretary and
7 a treasurer and such other officers as may be required,
8 who need not be members of the board, whose duties
9 shall be defined and whose compensation shall be fixed
10 by the board and paid out of the funds of the authority.
11 The treasurer, and such other officers and employees
12 as the board shall direct, shall furnish bond for the use
13 and benefit of the authority in such penal sum as may be
14 fixed by the board and conditioned upon the faithful
15 discharge by such treasurer and such other officers and
16 employees so directed by the board of the duties of their
17 respective offices or employment, and upon accounting
18 for and paying over all moneys which may come into
19 their possession by virtue of such office or employment.
20 At its first meeting the board shall also fix the time and
21 place for holding regular meetings, but it shall meet at
22 least once in the months of January, April, July and
23 October. Special meetings of the board may be called
24 by the president or by two members upon written request
25 to the secretary. The secretary shall send to all the
26 members, at least two days in advance of a special meet-
27 ing, a written notice setting forth the time and place of
28 the special meeting and the matters to be considered at
29 such special meeting. Written notice of a special meeting
30 is not required if the time of the special meeting has been
31 fixed in a regular meeting or if all the members are
32 present at the special meeting. All regular meetings shall
33 be general meetings for the consideration of any and all
34 matters which may properly come before an authority.
35 All proceedings of the authority shall be entered in a
36 permanently bound record book, properly indexed, and
37 shall be carefully preserved by the secretary of the
38 authority. All records of the authority shall be public
39 records.

§7-15-8. Quorum; majority vote required.

1 A majority of the members of the board shall constitute
2 a quorum. The vote of a majority of all members present
3 at any meeting of the board shall be necessary to take any
4 action.

§7-15-9. Budget.

1 The board shall establish the beginning and ending of
2 its fiscal year, which period shall constitute its budget
3 year, and, at least thirty days prior to the beginning of
4 the first full fiscal year after the creation of the author-
5 ity and annually thereafter, the treasurer shall prepare
6 and submit to the board a tentative budget. The tentative
7 budget shall be considered by the board, and, subject
8 to any revisions or amendments that may be determined
9 by the board, shall be adopted as the budget for the
10 ensuing fiscal year. No expenditures in excess of the
11 budget shall be made during such fiscal year unless
12 expressly authorized and directed by the board.

§7-15-10. Powers and duties of authorities generally.

1 Each authority is hereby given the power:
2 (a) To sue and be sued, implead and be impleaded;
3 (b) To have and use a seal and alter the same at
4 pleasure;
5 (c) To make and adopt all rules and regulations and
6 bylaws as may be necessary or desirable to enable it to
7 exercise the powers and perform the duties conferred or
8 imposed upon it by the provisions of this article;
9 (d) To provide emergency ambulance service, maintain
10 and operate such service, and employ, in its discretion,
11 planning consultants, attorneys, accountants, superintend-
12 ents, managers and such other employees and agents as
13 may be necessary in its judgment and fix their compensa-
14 tion;
15 (e) To acquire by grant, purchase, gift, devise or lease
16 and to hold, use, sell, lease or otherwise dispose of real
17 and personal property of every kind and nature what-
18 soever, licenses, franchises, rights and interests necessary
19 for the full exercise of its powers pursuant to the provi-
20 sions of this article or which may be convenient or useful
21 for the carrying out of such powers;

22 (f) To enter into contracts and agreements which are
23 necessary, convenient or useful to carry out the purposes
24 of this article with any person, public corporation, state or
25 any agency or political subdivision thereof and the federal
26 government and any department or agency thereof, in-
27 cluding, without limitation, contracts and agreements for
28 the joint use of any property and rights by the authority
29 and any person or authority operating any system,
30 whether within or without the service area of the author-
31 ity, and contracts and agreements with any person or
32 authority for the maintenance, servicing, storage, opera-
33 tion or use of any system or part thereof, facility or
34 equipment on such basis as shall seem proper to its
35 board;

36 (g) To enter into contracts and agreements for superin-
37 tendence and management services with any person, who
38 has executive personnel with experience and skill appli-
39 cable to the superintendence and management of any
40 system, for the furnishing of its services and the services
41 of experienced and qualified personnel for the superin-
42 tendence and management of any system or any part
43 thereof, including, without limitation, superintendence
44 over personnel, purchases, properties and operations and
45 all matters relating thereto, and any revenue bond trust
46 indenture may require such contract or agreement, but
47 the personnel whose services are to be so furnished under
48 any such contract or agreement shall not include any
49 member of the board, any member of the immediate
50 family of a member of the board or any agents or em-
51 ployees of the authority;

52 (h) To execute security agreements, contracts, leases,
53 equipment trust certificates and any other forms of con-
54 tract or agreement, granting or creating a lien, security
55 interest, encumbrance or other security in, on or to
56 facilities and equipment, containing such terms and pro-
57 visions as the board considers necessary;

58 (i) To apply for, receive and use grants, grants-in-aid,
59 donations and contributions from any source or sources,
60 including, but not limited to, the federal government and
61 any agency or department thereof, and a state govern-
62 ment whose constitution does not prohibit such grants,

63 grants-in-aid, donations and contributions, and any agency
 64 or department thereof, and to accept and use bequests,
 65 devises, gifts and donations from any person;

66 (j) To encumber or mortgage all or any part of its
 67 facilities and equipment; and

68 (k) To do any and all things necessary or convenient
 69 to carry out the powers given in this article unless other-
 70 wise forbidden by law.

**§7-15-11. Contributions to authorities; funds and accounts of
 authorities; reports; audit by state tax department.**

1 Contributions may be made to authorities from time
 2 to time by the participating governments and by the state
 3 of West Virginia, the United States of America, munici-
 4 palities, counties or persons that shall desire to do so. All
 5 such funds and all of the other funds received by any au-
 6 thority shall be deposited in a separate account in such
 7 banking institution or institutions as its board may direct
 8 and shall be withdrawn therefrom only in such manner as
 9 its board may direct. Each authority shall keep strict ac-
 10 count of all its receipts and expenditures and shall make
 11 a quarterly report to the participating governments which
 12 have made contributions to it. The report shall contain an
 13 itemized account of the authority's receipts and disburse-
 14 ments during the preceding quarter and shall be made
 15 within sixty days after the termination of the quarter.
 16 Within ninety days after the end of each fiscal year, each
 17 authority shall make an annual report containing an item-
 18 ized statement of its receipts and disbursements for the
 19 preceding fiscal year, and any and all other information
 20 which the board may consider pertinent, to all of the par-
 21 ticipating governments. The books, records and accounts
 22 of each authority shall be subject to audit and examination
 23 by the state tax department.

**§7-15-12. Emergency ambulance service not regulated by pub-
 lic service commission.**

1 Any authority created pursuant to the provisions of
 2 this article and any county commission which provides
 3 emergency ambulance service hereunder shall not be
 4 subject to regulation by the public service commission.

§7-15-13. Exemption from taxation.

1 It is hereby found, determined and declared that the
2 creation of any authority and the carrying out of its
3 purposes is in all respects for the benefit of the people
4 of this state in general and of the participating govern-
5 ments in particular and is a public purpose; and that
6 the authority will be performing an essential govern-
7 mental function in the exercise of the powers conferred
8 upon it by the provisions of this article. Accordingly,
9 each authority and, without limitation, its revenues,
10 properties, operations and activities shall be exempt
11 from the payment of any taxes or fees to the state or
12 any of its political subdivisions or to any officer or em-
13 ployee of the state or any of its political subdivisions.
14 Interest on obligations and all evidences of indebtedness
15 of any such authority shall be exempt from taxation,
16 except inheritance and transfer taxes.

§7-15-14. Indebtedness of authorities.

1 No indebtedness or obligation incurred by any authority
2 shall give any right against any member of the govern-
3 ing body of any participating government or any mem-
4 ber of the board of any authority. Any obligation or
5 indebtedness of any nature of any authority shall never
6 constitute an obligation or indebtedness of any partici-
7 pating government or the governing body of any par-
8 ticipating government, within the meaning of any con-
9 stitutional provision or statutory limitation and shall
10 never constitute or give rise to a pecuniary liability of
11 any participating government or the governing body of
12 any participating government or be a charge against the
13 general credit or taxing power of any participating gov-
14 ernment or the governing body of any participating gov-
15 ernment. The rights of creditors of any authority shall
16 be solely against the authority as a corporate body and
17 shall be satisfied only out of revenues, moneys or prop-
18 erty received or held by it in its corporate capacity.

§7-15-15. Conflict of interest.

1 No member of any authority, nor any of its officers,
2 employees, agents or consultants, shall have any interest
3 in any firm, partnership, corporation, company, associa-

4 tion or joint-stock association engaged in the business
 5 of providing ambulance service or in the manufacture,
 6 sale or lease of ambulance equipment or facilities. No
 7 member of any authority, nor any of its officers, em-
 8 ployees, agents or consultants, shall contract with the
 9 authority or be interested in, either directly or indirectly,
 10 any contract with the authority or in the sale of prop-
 11 erty, either real or personal, to such authority.

§7-15-16. Competitive bids; publication of solicitation for sealed bids.

1 A purchase of or contract for all supplies, equipment
 2 and materials and a contract for the construction of fa-
 3 cilities by any authority, when the expenditure required
 4 exceeds the sum of one thousand dollars, shall be based
 5 on competitive sealed bids. Such bids shall be obtained
 6 by public notice published as a Class II legal advertise-
 7 ment in compliance with the provisions of article three,
 8 chapter fifty-nine of this code, and the publication area
 9 for such publication shall be the service area of the
 10 authority. The second publication shall be made at least
 11 fourteen days before the final date for submitting bids.
 12 In addition to such publication, the notice may also be
 13 published by any other advertising medium the authority
 14 may consider advisable, and the authority may also solicit
 15 sealed bids by sending requests by mail to prospective
 16 suppliers and by posting notice on a bulletin board in the
 17 office of the authority.

§7-15-17. Imposition and collection of special emergency ambulance service fee by county commission.

1 A county commission may, by ordinance, impose upon
 2 and collect from the users of emergency ambulance service
 3 within the county a special service fee, which shall be
 4 known as the "special emergency ambulance service fee."
 5 The proceeds from the imposition and collection of any
 6 such special service fee shall be deposited in a special
 7 fund and used only to pay reasonable and necessary ex-
 8 penses actually incurred and the cost of buildings and
 9 equipment used in providing emergency ambulance serv-
 10 ice to residents of the county. Such proceeds may be used
 11 to pay for, in whole or in part, the establishment, mainte-

12 nance and operation of an authority, as provided for in
13 this article.

14 As used in this section, "users" means any person to
15 whom emergency ambulance service is made available
16 under the provisions of this article.

§7-15-18. Article constitutes complete authority; liberal construction; severability.

1 This article shall constitute full and complete authority
2 for the provision of emergency ambulance service within
3 a county by a county commission and for the creation of
4 any authority and carrying out the powers and duties of
5 any such authority. The provisions of this article shall
6 be liberally construed to accomplish its purpose and no
7 procedure or proceedings, notices, consents or approvals
8 shall be required in connection therewith except as may
9 be prescribed by this article.

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

James L. Davis
Chairman Senate Committee

Lawrence C. Hunter Jr
Chairman House Committee

Originated in the Senate.

In effect July 1, 1975.

J. P. McLaughlin Jr
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

W. T. Bratherton
President of the Senate

Lewis N. McManis
Speaker House of Delegates

The within *approved* this the *5th*
day of *March*, 1975.

Arva. Moore Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 2/28/75

Time 5:45 p.m.