

ENROLLED
Senate Bill No. 27
(By MR. STEPTOE)

[Passed March 13, 1976; in effect from passage.]

AN ACT to amend and reenact section three-a, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increasing from six to not to exceed eight percent per annum the interest borne on assessments paid for permanent improvements to property made by county commissions and increasing from six not to exceed eight percent per annum the interest drawn on the coupon-bearing certificates payable for such assessments.

Be it enacted by the Legislature of West Virginia:

That section three-a, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3a. Construction of waterworks; sewers and sewage disposal plants; improvements of streets, alleys and sidewalks; assessment of cost of sanitary sewers and improved streets.

1 In addition to all other powers and duties now con-
2 ferred by law upon county commissions, such commissions
3 are hereby authorized and empowered to install, con-
4 struct, repair, maintain and operate waterworks, water
5 mains, sewer lines and sewage disposal plants in connec-
6 tion therewith within their respective counties: *Provided,*
7 That the county commission of Webster is authorized to
8 expend county funds in the opening of, and upkeep of,
9 a sulphur well now situate on county property: *Provided,*
10 That such authority and power herein conferred upon

11 county commissions shall not extend into the territory
12 within any municipal corporation: *Provided, however,*
13 That any county commission is hereby authorized to enter
14 into contracts or agreements with any municipality within
15 the county, or with a municipality in an adjoining county,
16 with reference to the exercise of the powers vested in
17 such commissions by this section.

18 In addition to the foregoing, the county commission
19 shall have the power to improve streets, sidewalks and
20 alleys and lay sewers as follows: Upon petition in writing
21 duly verified, of the persons, firms or corporations owning
22 not less than sixty percent of the frontage of the lots
23 abutting on both sides of any street or alley, between
24 any two cross-streets, or between a cross-street and an
25 alley in any unincorporated community, requesting the
26 county commission so to do according to plans and speci-
27 fications submitted with such petition and offering to
28 have their property so abutting assessed not only with
29 their portion of the cost of such improvement abutting
30 upon their respective properties, but also offering to have
31 their said properties proportionately assessed with the
32 total cost of paving, grading and curbing the intersections
33 of such streets and alleys, the county commission may
34 cause any such street or alley to be improved or paved
35 or repaved substantially with the materials and according
36 to such plans and specifications as hereinafter provided:
37 *Provided, however,* That the county commission is further
38 authorized, if the said county commission so determines
39 by a unanimous vote of its constituted membership, that
40 two or more intersecting streets, sidewalks, alleys and
41 sewers, should be improved as one project, in order to
42 satisfy peculiar problems resulting from access as well
43 as drainage problems, then, in that event, the said county
44 commission may order such improvements as one single
45 unit and project, upon petition in writing duly verified
46 of the persons, firms or corporations owning not less than
47 sixty percent of the frontage of the lots abutting on both
48 sides of all streets or alleys, or portions thereof included
49 by said county commission in said unit and project.

50 The total cost including labor and materials, engineer-
51 ing, and legal service of grading and paving, curbing,

52 improving any such street or alley (including the cost
53 of the intersections) and assessing the cost thereof shall
54 be borne by the owners of the land abutting upon **such**
55 street or alley when the work is completed and accepted
56 according to the following plan, that is to say, payment is
57 to be made by all landowners on either side of such street
58 or alley so paved or improved, in such proportion of the
59 total cost as the frontage in feet of each owner's land so
60 abutting bears to the total frontage of all the **land so**
61 abutting on such street or alley, so paved or improved as
62 aforesaid, which computation shall be made by the county
63 engineer or surveyor and certified by him to the **clerk of**
64 said commission.

65 Upon petition in writing duly verified, of the persons,
66 firms or corporations owning not less than sixty percent of
67 the frontage of the lots abutting on one side of any street
68 between any two cross-streets or between a cross-street
69 and an alley in any unincorporated community requesting
70 the county commission so to do according to plans and
71 specifications submitted with such petition and offering to
72 have their property so abutting assessed with the total
73 cost thereof, the county commission may cause any side-
74 walk to be improved, or paved, or repaved, substantially
75 with such materials according to such plans and specifi-
76 cations and the total cost including labor and materials,
77 engineering and legal service of improving, grading, pav-
78 ing, or repaving such sidewalk and assessing the cost
79 thereof shall, when the work is completed and accepted,
80 be assessed against the owners of the lots or fractional
81 part of lots abutting on such sidewalk, in such **portion**
82 of the total cost as the frontage in feet of each owner's
83 land so abutting bears to the total frontage of all lots so
84 abutting on such sidewalk so paved or improved, as afore-
85 said, which computation shall be made by the county
86 engineer or surveyor and certified by him to the clerk of
87 said commission.

88 Upon petition in writing duly verified, of the persons,
89 firms or corporations owning not less than sixty percent of
90 the frontage of the lots abutting on both sides of any
91 street or alley, in any unincorporated community request-
92 ing the county commission so to do according to plans and

93 specifications submitted with such petition and offering to
94 have their property so abutting assessed with the cost, as
95 hereinafter provided, the county commission may lay and
96 construct sanitary sewers in any street or alley with such
97 materials and substantially according to such plans and
98 specifications and when such sewer is completed and
99 accepted, the county engineer or surveyor shall report to
100 the county commission, in writing, the total cost of such
101 sewer and a description of the lots and lands, as to **the**
102 location, frontage, depth and ownership liable for such
103 sewer assessment, so far as the same may be ascertained,
104 together with the amount chargeable against each lot and
105 owner, calculated in the following manner: The total cost
106 of constructing and laying the sewer including labor,
107 materials, legal and engineering services shall be borne by
108 the owners of the land abutting upon the streets and alleys,
109 in which the sewer is laid according to the following plan:
110 Payment is to be made by each landowner on either side of
111 such portion of a street or alley in which such sewer is
112 laid, in such proportions as the frontage of his land upon
113 said street or alley bears to the total frontage of all lots
114 so abutting on such street or alley. In case of a corner
115 lot, frontage is to be measured along the longest dimen-
116 sions thereof abutting on such street or alley in which
117 such sewer is laid. Any lot having a depth of two hundred
118 feet or more, and fronting on two streets, or alleys, one in
119 the front and one in the rear of said lot, shall be assessed
120 on both of said streets or alleys if a sewer is laid in both
121 such streets and alleys. Where a corner lot has been as-
122 sessed on the end it shall not be assessed on the side for
123 the same sewer and where it has been assessed on the side
124 it shall not be assessed on the end for the same sewer.

125 If the petitioners request the improvement of any such
126 street, alley or sidewalk in a manner which does not re-
127 quire the permanent paving or repaving thereof, the coun-
128 ty commission shall likewise have authority to improve
129 such street, alley or sidewalk, substantially as requested
130 in such petition, and the total cost thereof including labor,
131 materials, engineering and legal services shall be assessed
132 against the abutting owners in the proportion which the
133 frontage of their lots abutting upon such street, alley or

134 sidewalk bears to the total frontage of all lots abutting
135 upon such street, alley or sidewalk, so improved.

136 Upon the filing of such petition and before work is
137 begun, or let to contract, the county commission shall
138 fix a time and place for hearing protests and shall re-
139 quire the petitioners to post notice of such hearing in at
140 least two conspicuous places on the street, alley or side-
141 walk affected, and to give notice thereof by publication
142 of such notice as a Class I legal advertisement in com-
143 pliance with the provisions of article three, chapter
144 fifty-nine of this code, and the publication area for such
145 publication shall be the county in which the improvement
146 is to be made. The hearing shall be held not less than
147 ten nor more than thirty days after the filing of such
148 petition.

149 At the time and place set for hearing protests the
150 county commission may examine witnesses and consider
151 other evidence to show that said petition was filed in good
152 faith; that the signatures thereto are genuine; and that the
153 proposed improvement, paving, repaving, or sewerage, will
154 result in special benefits to all owners of property abutting
155 on said street, alley or sidewalk in an amount at least
156 equal in value to the cost thereof. The commission shall
157 within ten days thereafter enter a formal order stating
158 its decision and if the petition be granted shall proceed
159 after due advertisement, reserving the right to reject any
160 or all bids, to let a contract for such work and materials
161 to the lowest responsible bidder.

162 Any owner of property abutting upon said street, alley
163 or sidewalk aggrieved by such order shall have the right to
164 review the same on the record made before the county
165 commission by filing within ten days after the entry of
166 such order, a petition with the clerk of the circuit court
167 assigning errors and giving bond in a penalty to be fixed
168 by the circuit court to pay any costs or expenses incurred
169 upon such appeal should the order of the county commis-
170 sion be affirmed. The circuit court shall proceed to review
171 the matter as in other cases of appeal from the county
172 commission.

173 All assessments made under this section shall be certi-
174 fied to the county clerk and recorded in a proper trust

256 the paving, repaving or improvement of any street, alley
257 or sidewalk or the laying of any sanitary sewer under the
258 provisions of this section, to maintain or repair the same,
259 but any such commission shall have authority upon peti-
260 tion duly verified, signed by at least sixty percent of the
261 owners of property abutting upon any improvement made
262 under this section, to maintain or repair such improvement
263 or sewer and to assess the cost thereof against the owners
264 of such abutting property in the same manner as the cost
265 of the original improvement.

