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Date 3-29-83

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983

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ENROLLED

Com. Sub. for
HOUSE BILL No. 1210...

(By Mr. Doyle)

— ● —

Passed March 12, 1983

In Effect Ninety Days From Passage



770: 1210

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 1210

(By MR. DOYLE)

[Passed March 12, 1983; in effect ninety days from passage.]

AN ACT to amend and reenact section three-i, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section five, article twelve, chapter eight of said code, relating to the authority of county commissions and municipalities to enter into reciprocal agreements for fire protection and emergency medical services with nonresident governmental entities.

Be it enacted by the Legislature of West Virginia:

That section three-i, article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section five, article twelve, chapter eight of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3i. County commission may cooperate with other governmental units.

- 1 Any county commission may join together in the exercise of
- 2 any of its powers, duties and responsibilities, or otherwise
- 3 cooperate with any other county or counties, municipality or

4 municipalities, the government of this state or of the United
5 States in carrying out any lawful purpose not in conflict with the
6 constitution of West Virginia: *Provided*, That the county com-
7 mission of any county sharing a common border with any
8 other state is hereby empowered to enter into reciprocal
9 agreements with governmental subdivisions or agencies of such
10 other state for the protection of people and property from
11 fire and for emergency medical services and for the reciprocal
12 use of county equipment and personnel for such purpose.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOV- ERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-5. General powers of every municipality and the governing body thereof.

1 In addition to the powers and authority granted by (i) the
2 constitution of this state, (ii) other provisions of this chapter,
3 (iii) other general law, and (iv) any charter, and to the extent
4 not inconsistent or in conflict with any of the foregoing except
5 special legislative charters, every municipality and the govern-
6 ing body thereof shall have plenary power and authority therein
7 by ordinance or resolution, as the case may require, and by ap-
8 propriate action based thereon:

9 (1) To lay off, establish, construct, open, alter, curb,
10 recurb, pave or repave and keep in good repair, or vacate,
11 discontinue and close, streets, avenues, roads, alleys, ways,
12 sidewalks, drains and gutters, for the use of the public, and to
13 improve and light the same, and have them kept free from
14 obstructions on or over them which have not been authorized
15 pursuant to the succeeding provisions of this subdivision (1);
16 and, subject to such terms and conditions as the governing body
17 shall prescribe, to permit, without in any way limiting the power
18 and authority granted by the provisions of article sixteen of this
19 chapter, any person to construct and maintain a passageway,
20 building or other structure overhanging or crossing the airspace
21 above a public street, avenue, road, alley, way, sidewalk, or
22 crosswalk, but before any such permission for any person to

23 construct and maintain a passageway, building or other struc-
 24 ture overhanging or crossing any such airspace is granted, a
 25 public hearing thereon shall be held by the governing body after
 26 publication of a notice of the date, time, place and purpose of
 27 such public hearing has been published as a Class I legal ad-
 28 vertisement in compliance with the provisions of article three,
 29 chapter fifty-nine of this code, and the publication area for
 30 such publication shall be the municipality: *Provided*, That any
 31 such permit so granted, shall automatically cease and ter-
 32 minate in the event of abandonment and nonuse thereof for
 33 the purposes intended for a period of ninety days, and all
 34 rights therein or thereto shall revert to such municipality for
 35 its use and benefit;

36 (2) To provide for the opening and excavation of streets,
 37 avenues, roads, alleys, ways, sidewalks, crosswalks and public
 38 places belonging to the municipality and regulate the conditions
 39 under which any such opening may be made;

40 (3) To prevent by proper penalties the throwing, depositing
 41 or permitting to remain on any street, avenue, road, alley, way,
 42 sidewalk, square or other public place any glass, scrap iron,
 43 nails, tacks, wire, other litter, or any offensive matter or
 44 anything likely to injure the feet of individuals or animals or
 45 the tires of vehicles;

46 (4) To regulate the use of streets, avenues, roads, alleys,
 47 ways, sidewalks, crosswalks and public places belonging to the
 48 municipality;

49 (5) To regulate the width of streets, avenues and roads, and,
 50 subject to the provisions of article eighteen of this chapter, to
 51 order the sidewalks, footways and crosswalks to be paved, re-
 52 paved, curbed or recurbed and kept in good order, free and
 53 clean, by the owners or occupants thereof or of the real pro-
 54 perty next adjacent thereto;

55 (6) To establish, construct, alter, operate and maintain, or
 56 discontinue, bridges, tunnels and ferries and approaches there-
 57 to;

58 (7) To provide for the construction and maintenance of

59 water drains, the drainage of swamps or marshlands and
60 drainage systems;

61 (8) To provide for the construction, maintenance and
62 covering over of watercourses;

63 (9) To control and administer the waterfront and water-
64 ways of the municipality, and to acquire, establish, construct,
65 operate and maintain and regulate flood control works, wharves
66 and public landings, warehouses and all adjuncts and facilities
67 for navigation and commerce and the utilization of the water-
68 front and waterways and adjacent property;

69 (10) To prohibit the accumulation and require the disposal
70 of garbage, refuse, wastes, ashes, trash and other similar
71 matters;

72 (11) To construct, establish, acquire, equip, maintain and
73 operate incinerator plants and equipment and all other facilities
74 for the efficient removal and destruction of garbage, refuse,
75 wastes, ashes, trash and other similar matters;

76 (12) To regulate or prohibit the purchase or sale of articles
77 intended for human use or consumption which are unfit for
78 such use or consumption, or which may be contaminated or
79 otherwise unsanitary;

80 (13) To prevent injury or annoyance to the public or in-
81 dividuals from anything dangerous, offensive or unwholesome;

82 (14) To regulate the keeping of gunpowder and other
83 combustibles;

84 (15) To make regulations guarding against danger or
85 damage by fire;

86 (16) To arrest, convict and punish any individual for
87 carrying about his person any revolver or other pistol, dirk,
88 bowie knife, razor, slungshot, billy, metallic or other false
89 knuckles, or any other dangerous or other deadly weapon of
90 like kind or character;

91 (17) To arrest, convict and punish any person for im-
92 porting, printing, publishing, selling or distributing any por-
93 nographic publications;

94 (18) To arrest, convict and punish any person for keeping
95 a house of ill fame, or for letting to another person any house
96 or other building for the purpose of being used or kept as a
97 house of ill fame, or for knowingly permitting any house owned
98 by him or under his control to be kept or used as a house of ill
99 fame, or for loafing, boarding or loitering in a house of ill
100 fame, or frequenting same;

101 (19) To prevent and suppress conduct and practices which
102 are immoral, disorderly, lewd, obscene and indecent;

103 (20) To prevent the illegal sale of intoxicating liquors,
104 drinks, mixtures and preparations;

105 (21) To arrest, convict and punish any individual for
106 driving or operating a motor vehicle while intoxicated or under
107 the influence of liquor, drugs or narcotics;

108 (22) To arrest, convict and punish any person for gambling
109 or keeping any gaming tables, commonly called "A,B,C," or
110 "E,O," table or faro bank or keno table, or table of like kind,
111 under any denomination, whether the gaming table be played
112 with cards, dice or otherwise, or any person who shall be a
113 partner or concerned in interest, in keeping or exhibiting such
114 table or bank, or keeping or maintaining any gaming house
115 or place, or betting or gambling for money or anything of
116 value;

117 (23) To provide for the elimination of hazards to public
118 health and safety and to abate or cause to be abated anything
119 which in the opinion of a majority of the governing body is a
120 public nuisance;

121 (24) To license, or for good cause to refuse to license in
122 a particular case, or in its discretion to prohibit in all cases,
123 the operation of pool and billiard rooms and the maintaining
124 for hire of pool and billiard tables notwithstanding the general
125 law as to state licenses for any such business and the pro-
126 visions of section four, article thirteen of this chapter; and when
127 the municipality, in the exercise of its discretion, shall have
128 refused to grant a license to operate a pool or billiard room,
129 mandamus shall not lie to compel such municipality to grant
130 such license unless it shall clearly appear that the refusal of the

131 municipality to grant such license is discriminatory or arbitrary;
132 and in the event that the municipality determines to license any
133 such business, the municipality shall have plenary power and
134 authority, and it shall be the duty of its governing body, to
135 make and enforce reasonable ordinances regulating the licensing
136 and operation of such businesses;

137 (25) To protect places of divine worship and to preserve
138 peace and order in and about the premises where held;

139 (26) To regulate or prohibit the keeping of animals or
140 fowls and to provide for impounding, sale or destruction of
141 animals or fowls kept contrary to law or found running at
142 large;

143 (27) To arrest, convict and punish any person for cruelty,
144 unnecessarily or needlessly beating, torturing, mutilating, killing
145 or overloading or overdriving, or willfully depriving of neces-
146 sary sustenance, any domestic animal;

147 (28) To provide for the regular building of houses or other
148 structures, for the making of division fences by the owners of
149 adjacent premises and for the drainage of lots by proper drains
150 and ditches;

151 (29) To provide for the protection and conservation of
152 shade or ornamental trees, whether on public or private
153 property, and for the removal of trees or limbs of trees in a
154 dangerous condition;

155 (30) To prohibit with or without zoning the location of
156 occupied house trailers or mobile homes in certain residential
157 areas;

158 (31) To regulate the location and placing of signs, bill-
159 boards, posters and similar advertising;

160 (32) To erect, establish, construct, acquire, improve, main-
161 tain and operate a gas system, a waterworks system, an electric
162 system or sewer system and sewage treatment and disposal sys-
163 tem, or any combination of the foregoing (subject to all of the
164 pertinent provisions of articles nineteen and twenty of this chap-
165 ter and particularly to the limitations or qualifications on the
166 right of eminent domain set forth in said articles nineteen and

167 twenty), within or without the corporate limits of the municipal-
168 ity, except that the municipality shall not erect any such system
169 partly without the corporate limits of the municipality to serve
170 persons already obtaining service from an existing system
171 of the character proposed, and where such system is by the
172 municipality erected, or has heretofore been so erected, partly
173 within and partly without the corporate limits of the municipi-
174 pality, the municipality shall have the right to lay and collect
175 charges for service rendered to those served within and those
176 served without the corporate limits of the municipality, and to
177 prevent injury to such system or the pollution of the water
178 thereof and its maintenance in a healthful condition for public
179 use within the corporate limits of the municipality;

180 (33) To acquire watersheds, water and riparian rights,
181 plant sites, rights-of-way and any and all other property and ap-
182 purtenances necessary, appropriate, useful, convenient or in-
183 cidental to any such system, waterworks or sewage treatment
184 and disposal works, as aforesaid, subject to all of the pertinent
185 provisions of articles nineteen and twenty of this chapter;

186 (34) To establish, construct, acquire, maintain and operate
187 and regulate markets, and prescribe the time of holding the
188 same;

189 (35) To regulate and provide for the weighing of articles
190 sold or for sale;

191 (36) To establish, construct, acquire, maintain and operate
192 public building, municipal buildings or city halls, auditoriums,
193 arenas, jails, juvenile detention centers or homes, motor vehicle
194 parking lots, or any other public works;

195 (37) To establish, construct, acquire, provide, equip,
196 maintain and operate recreational parks, playgrounds and other
197 recreational facilities for public use, and in this connection
198 also to proceed in accordance with the provision of article
199 two, chapter ten of this code;

200 (38) To establish, construct, acquire, maintain and operate
201 a public library or museum or both for public use;

202 (39) To provide for the appointment and financial support

203 of a library board in accordance with the provisions of article
204 one, chapter ten of this code;

205 (40) To establish and maintain a public health unit in
206 accordance with the provisions of section two, article two,
207 chapter sixteen of this code, which unit shall exercise its
208 powers and perform its duties subject to the supervision and
209 control of the West Virginia board of health and state depart-
210 ment of health;

211 (41) To establish, construct, acquire, maintain and operate
212 hospitals, sanatoria and dispensaries;

213 (42) To acquire, by purchase, condemnation or otherwise,
214 land within or near the corporate limits of the municipality for
215 providing and maintaining proper places for the burial of the
216 dead and to maintain and operate the same and regulate in-
217 terments therein upon such terms and conditions as to price and
218 otherwise as may be determined by the governing body, and, in
219 order to carry into effect such authority the governing body
220 may acquire any cemetery or cemeteries already established;

221 (43) To exercise general police jurisdiction over any terri-
222 tory without the corporate limits owned by the municipality or
223 over which it has a right-of-way;

224 (44) To protect and promote the public morals, safety,
225 health, welfare and good order;

226 (45) To adopt rules for the transaction of business and the
227 government and regulation of its governing body;

228 (46) Except as otherwise provided, to require and take such
229 bonds from such officers, when deemed necessary, payable to
230 the municipality, in its corporate name, with such sureties and
231 in such penalty as the governing body may see fit, conditioned
232 upon the faithful discharge of their duties;

233 (47) To require and take from such employees and con-
234 tractors such bonds in such penalty, with such sureties and with
235 such conditions, as the governing body may see fit;

236 (48) To investigate and inquire into all matters of concern
237 to the municipality or its inhabitants;

238 (49) To establish, construct, require, maintain and operate
239 such instrumentalities, other than free public schools, for the
240 instruction, enlightenment, improvement, entertainment, recrea-
241 tion and welfare of the municipality's inhabitants as the
242 governing body may deem necessary or appropriate for the
243 public interest;

244 (50) To create, maintain and operate a system for the
245 enumeration, identification and registration, or either, of the
246 inhabitants of the municipality and visitors thereto, or such
247 classes thereof as may be deemed advisable;

248 (51) To appropriate and expend not exceeding twenty-five
249 cents per capita per annum for advertising the municipality
250 and the entertainment of visitors;

251 (52) To conduct programs to improve community relations
252 and public relations generally and to expend municipal revenue
253 for such purposes;

254 (53) To reimburse applicants for employment by the
255 municipality for travel and other reasonable and necessary
256 expenses actually incurred by such applicants in traveling to
257 and from such municipality to be interviewed;

258 (54) To provide revenue for the municipality and appro-
259 priate the same to its expenses;

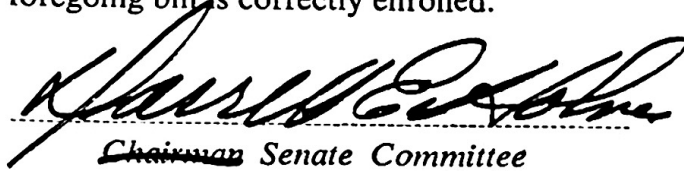
260 (55) To create and maintain an employee benefits fund,
261 which shall not exceed one tenth of one percent of the annual
262 payroll budget for general employee benefits and which shall
263 be set up for the purpose of stimulating and encouraging
264 employees to develop and implement cost-saving ideas and
265 programs, and to expend moneys from such fund for such
266 purposes;

267 (56) To enter into reciprocal agreements with govern-
268 mental subdivisions or agencies of any state sharing a common
269 border for the protection of people and property from fire
270 and for emergency medical services and for the reciprocal
271 use of equipment and personnel for such purpose; and

272 (57) To provide penalties for the offenses and violations
273 of law mentioned in this section, subject to the provisions

274 of section one, article eleven of this chapter, and such penalties
275 shall not exceed any penalties provided in this chapter, and
276 chapter sixty-one of this code for like offenses and violations.


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

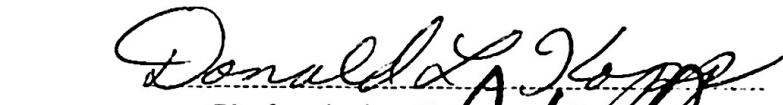


Chairman Senate Committee

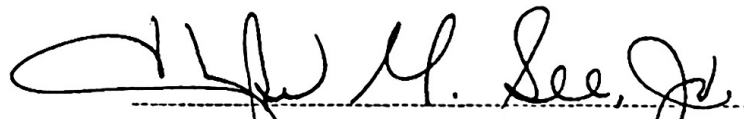

Chairman House Committee

Originating 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 inapparent this the 29
day of March, 1983.


Governor

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SECY. OF STATE