

No: 147

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985

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ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 147

(By Mr. Lehr, Mr. Cook)

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PASSED March 22 1985

In Effect ninety days from Passage



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 147**

(BY MR. LOEHR AND MR. COOK, *original sponsors*)

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[Passed March 22, 1985; 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 authorizing municipalities to contract to provide services for the prevention and extinguishment of fire for property located outside corporate limits; providing such services beyond three miles of corporate limits in accordance with a rural fire protection district plan approved by the state fire commission; disallowing such rural fire protection district plans to infringe upon the response area of an existing fire department without such department's written consent; annual payments for contracted fire services; liens for and collection of defaulted payments; cancellation of contracts upon default; such contracts passing to the successors in title to property covered by such contracts; and cancellation of such contracts.

*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 prevention and extinguishment of fires beyond three miles of corporate limits.**

1 (a) Any municipality may contract to render services  
2 in the prevention and extinguishment of fires upon prop-  
3 erty located within three miles of its corporate limits. A  
4 municipality may contract beyond the three-mile limit  
5 for fire service protection, if fire protection is provided  
6 in accordance with and under a rural fire protection dis-  
7 trict plan based upon the fire suppression rating schedule  
8 approved by the state insurance commissioner. All rural  
9 fire protection district plans shall be approved by the  
10 state fire commission. No rural fire protection district  
11 plan providing for a municipality to contract beyond the  
12 three-mile limit may infringe upon an existing fire depart-  
13 ment's response area without the written consent of the  
14 fire department providing fire services for that area.

15 No contract entered into under the authority of this  
16 section may operate to impose any greater obligation or  
17 liability upon the municipality than that with respect to  
18 property within its corporate limits. Nothing contained in  
19 this section may be construed as requiring any munici-  
20 pality to contract to render such services.

21 Any contract entered into under the authority of this  
22 section, on or after the first day of July, one thousand  
23 nine hundred sixty-nine, shall require the property owner  
24 to pay as consideration for said services an annual pay-  
25 ment, determined as provided in the remainder of this  
26 subsection. If the municipality does not impose a fire  
27 service fee on the users of such service within the munici-  
28 pality as authorized in section thirteen, article thirteen  
29 of this chapter, the annual payment shall be equivalent  
30 to eighty percent of the annual tax levied for current  
31 municipal purposes upon property within said munici-  
32 pality of like assessed valuation to the property under  
33 contract. If the municipality does impose a fire service

34 fee on the users of such service within the municipality,  
35 as authorized in section thirteen, article thirteen of this  
36 chapter, the annual payment shall be equivalent to the  
37 amount of fire service fee which would be imposed if the  
38 property under contract were located within the munic-  
39 pality plus at least fifty percent of the annual tax levied  
40 for current municipal purposes upon property within said  
41 municipality of like assessed valuation to the property  
42 under contract. No contract entered into under the au-  
43 thority of this section, and nothing herein contained, may  
44 be construed as requiring or permitting any municipality  
45 to install or maintain any special additional apparatus or  
46 equipment beyond that necessary for the protection of  
47 property within its corporate limits.

48 (b) The annual payments due under any such contract  
49 are payable on or before the first day of October of each  
50 calendar year in which such contract remains in effect, or  
51 upon such day as may be hereinafter provided as the due  
52 date of the first installment of ad valorem taxes. If any  
53 annual payment is in default for a period of more than  
54 thirty days, it shall bear interest at the same rate as that  
55 provided for delinquent property taxes and shall be a lien  
56 upon the property under contract if a notice of such lien  
57 is recorded in the proper deed of trust book in the office  
58 of the clerk of the county commission of the county in  
59 which such property or the major portion thereof is lo-  
60 cated. Such lien is void at the expiration of two years  
61 after such defaulted annual payment became due, unless  
62 within such two-year period a civil action seeking equi-  
63 table relief to enforce the lien was instituted by the  
64 municipality. The municipality may by civil action collect  
65 any annual payment and the interest thereon at any time  
66 within five years after such payment became due; and  
67 upon default in any annual payment, the municipality  
68 may cancel the contract involved.

69 (c) Any contract made under the authority of this sec-  
70 tion shall inure to the benefit of and be binding upon the  
71 successors in title of the person making the same con-  
72 tract; and such person, upon conveying the property  
73 subject to such contract is no longer liable under such

74 contract, except as to annual payments which were due  
75 prior to the conveyance and which remain unpaid.

76 (d) Any property owner may cancel any such contract  
77 with respect to the property of such owner upon giving  
78 a thirty-day written notice to the municipality, if the  
79 owner is not in default with respect to any annual pay-  
80 ment due thereunder, except that if such notice is given  
81 subsequent to July first of any calendar year, the next  
82 succeeding annual payment shall be made by the prop-  
83 erty owner as soon as the amount thereof is ascertainable.  
84 Upon cancellation as aforesaid, the municipality shall  
85 deliver to the property owner a recordable release dis-  
86 charging such owner and such property from any further  
87 lien or obligation with respect to the annual payments.  
88 The annual payments due under any such contract shall  
89 be made to the officials as the municipality, in the con-  
90 tract, designates to receive them, who likewise may re-  
91 ceive notice of cancellation and execute upon behalf of  
92 the municipality the release for which provision is here-  
93 inbefore made.

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

Bruce O. Williams  
Chairman Senate Committee

Floyd Fuller  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Ivdd C. Wills  
Clerk of the Senate

Donald L. Hopp  
Clerk of the House of Delegates

San Tomkovic  
President of the Senate

Joseph P. Albright  
Speaker House of Delegates

The within approved this the 2nd  
day of April, 1985.

Anna A. Shaefer  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/27/85

Time 5:01 p.m.

RECEIVED

1985 APR -2 PM 3:01

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE