WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED

Committee Substitute for
SENATE BILL NO. 147

(By Mr. Lehrr, Mr. Cook)

PASSED March 22, 1985
In Effect ninety days from Passage
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.


(a) Any municipality may contract to render services in the prevention and extinguishment of fires upon property located within three miles of its corporate limits. A municipality may contract beyond the three-mile limit for fire service protection, if fire protection is provided in accordance with and under a rural fire protection district plan based upon the fire suppression rating schedule approved by the state insurance commissioner. All rural fire protection district plans shall be approved by the state fire commission. No rural fire protection district plan providing for a municipality to contract beyond the three-mile limit may infringe upon an existing fire department's response area without the written consent of the fire department providing fire services for that area.

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

Any contract entered into under the authority of this section, on or after the first day of July, one thousand nine hundred sixty-nine, shall require the property owner to pay as consideration for said services an annual payment, determined as provided in the remainder of this subsection. If the municipality does not impose a fire service fee on the users of such service within the municipality as authorized in section thirteen, article thirteen of this chapter, the annual payment shall be equivalent to eighty percent of the annual tax levied for current municipal purposes upon property within said municipality of like assessed valuation to the property under contract. If the municipality does impose a fire service
fee on the users of such service within the municipality, as authorized in section thirteen, article thirteen of this chapter, the annual payment shall be equivalent to the amount of fire service fee which would be imposed if the property under contract were located within the municipality plus at least fifty percent of the annual tax levied for current municipal purposes upon property within said municipality of like assessed valuation to the property under contract. No contract entered into under the authority of this section, and nothing herein contained, may be construed as requiring or permitting any municipality to install or maintain any special additional apparatus or equipment beyond that necessary for the protection of property within its corporate limits.

(b) The annual payments due under any such contract are payable on or before the first day of October of each calendar year in which such contract remains in effect, or upon such day as may be hereinafter provided as the due date of the first installment of ad valorem taxes. If any annual payment is in default for a period of more than thirty days, it shall bear interest at the same rate as that provided for delinquent property taxes and shall be a lien upon the property under contract if a notice of such lien is recorded in the proper deed of trust book in the office of the clerk of the county commission of the county in which such property or the major portion thereof is located. Such lien is void at the expiration of two years after such defaulted annual payment became due, unless within such two-year period a civil action seeking equitable relief to enforce the lien was instituted by the municipality. The municipality may by civil action collect any annual payment and the interest thereon at any time within five years after such payment became due; and upon default in any annual payment, the municipality may cancel the contract involved.

(c) Any contract made under the authority of this section shall inure to the benefit of and be binding upon the successors in title of the person making the same contract; and such person, upon conveying the property subject to such contract is no longer liable under such
(d) Any property owner may cancel any such contract with respect to the property of such owner upon giving a thirty-day written notice to the municipality, if the owner is not in default with respect to any annual payment due thereunder, except that if such notice is given subsequent to July first of any calendar year, the next succeeding annual payment shall be made by the property owner as soon as the amount thereof is ascertainable. Upon cancellation as aforesaid, the municipality shall deliver to the property owner a recordable release discharging such owner and such property from any further lien or obligation with respect to the annual payments. The annual payments due under any such contract shall be made to the officials as the municipality, in the contract, designates to receive them, who likewise may receive notice of cancellation and execute upon behalf of the municipality the release for which provision is herebefore made.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Floyd Fuller

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Donald L. Hoff

Clerk of the House of Delegates

San Terranova

President of the Senate

Joseph P. Wright

Speaker House of Delegates

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

A. A. Shanker

Governor