

No. 147

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985



ENROLLED
Committee Substitute for
SENATE BILL NO. 147

(By Mr. Lehr, Mr. Cook)



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*)

[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.

§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 municipi-
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 municipi-
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 municipi-
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.

Judd C. Willis
Clerk of the Senate

Donald L. Hoop
Clerk of the House of Delegates

Sam Tomkovich
President of the Senate

Joseph P. Albright
Speaker House of Delegates

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

Anna S. Shaver
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