

HB # 4362

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

HOUSE BILL No. 4362

(By Delegate s Phillips P. White, Vest
and Paston



Passed March 11, 1994

In Effect From Passage

ENROLLED
H. B. 4362

(By DELEGATES PHILLIPS, P. WHITE, VEST AND PAXTON)

[Passed March 11, 1994; in effect from passage.]

AN ACT to authorize the Rock Branch Industrial Park to maintain an industrial maintenance association in Putnam County.

Be it enacted by the Legislature of West Virginia:

MAINTENANCE ASSOCIATIONS.

§1. Definitions.

1 In this bill unless a different meaning plainly is
2 required:

3 (1) "Industrial maintenance association member"
4 means any person, corporation or other business entity
5 that owns property that fronts on either side of a road
6 in an industrial park or area where industry occupies
7 at least sixty percent of land fronting the road under
8 consideration for designation.

9 (2) "Maintenance association" means an association
10 established pursuant to the requirements of this bill.

11 (3) "Maintenance association documents" means
12 documents approved by the county commission as
13 meeting the requirements of this bill and filed with the
14 clerk of the county commission.

§2. Purpose of the maintenance association.

1 A maintenance association may be established in
2 Putnam County at the Rock Branch Industrial Park to

3 protect the health, safety and welfare of persons,
4 businesses and the general public located within the
5 Rock Branch Industrial Park. The maintenance associ-
6 ation shall be created with the objective of establishing
7 and maintaining improvements for the Rock Branch
8 Industrial Park, which may include constructing and
9 maintaining shared streets, drainage facilities, side-
10 walks, water and sewer systems, signs and other
11 improvements necessary for the protection of health,
12 safety and welfare of persons, businesses and the
13 general public.

§3. Petition to establish maintenance association.

1 (a) A petition in writing may be made to the county
2 commission, that duly verifies that property owners
3 owning jointly at least sixty percent of the frontage of
4 the lots on both sides of the Rock Bridge Industrial Park
5 in any unincorporated area requesting the approval of
6 the formation of a maintenance association. The petition
7 shall be accompanied by the proposed maintenance
8 association's recordable documents that establish the
9 association.

10 (b) Upon the filing of such petition and the proposed
11 maintenance association documents, the county commis-
12 sion shall fix a time and place for hearing protests and
13 shall require the petitioners to post notice of such
14 hearing in at least two conspicuous places on the
15 industrial subdivision road of the area affected, and to
16 give notice thereof by publication of such notice as a
17 Class I legal advertisement in compliance with the
18 provisions of article three, chapter fifty-nine of the code
19 of West Virginia, one thousand nine hundred thirty-one.
20 The publication area for such publication shall be in
21 Putnam County. The hearing shall be held not less than
22 ten nor more than thirty days after the filing of such
23 petition.

24 (c) At the time and place set for hearing protests, the
25 county commission may examine witnesses and consider
26 other evidence to show that:

27 (1) Said petition was filed in good faith;

28 (2) The signatures on the petition are genuine;

29 (3) The maintenance association document addresses
30 the maintenance association purpose; and

31 (4) The proposed maintenance association will result
32 in special benefits to all owners of property abutting on
33 said industrial subdivision road.

34 The commission shall within ten days thereafter enter
35 a formal order stating its decision.

36 (d) Any owner of property abutting upon said indus-
37 trial subdivision road aggrieved by such order shall
38 have the right to review the order on the record made
39 before the county commission by filing a petition with
40 the clerk of the circuit court within ten days after the
41 entry of such order. The owner shall give bond in an
42 amount to be fixed by the circuit court sufficient to pay
43 costs or expenses incurred by the court and the
44 maintenance association upon appeal if the order of the
45 county commission is affirmed. The circuit court shall
46 proceed to review the matter as in other appeals from
47 the county commission.

§4. Assessment and collection of fees; notice.

1 (a) A maintenance association which furnishes essen-
2 tial services, including, but not limited to, construction
3 and maintenance of shared streets, drainage facilities,
4 sidewalks, water and sewer systems, signs and other
5 improvements necessary for the health, safety and
6 welfare of persons, businesses and the general public,
7 may impose reasonable fees and charges on persons
8 owning lots abutting the frontage of both sides of roads
9 listed in the maintenance association document.

10 (b) Any new fee or fee increase assessed under this
11 section shall not be collectable unless notice of the
12 proposed fee or increase is sent by certified mail to each
13 person owning property listed in the maintenance
14 association document. If thirty percent of the members,
15 by signed petition, protest the assessment to the
16 association within fifteen days of the mailing, the fee
17 shall not become effective until it is ratified by sixty
18 percent of the members.

19 (c) All fees assessed under this section are declared to
20 be debts owing to the maintenance association for which
21 the debtor shall be personally liable. The maintenance
22 association, or an individual designated to act for it, may
23 enforce this liability by appropriate civil action in a
24 court of competent jurisdiction. After being reduced to
25 judgment and filed with the clerk of the county
26 commission, such liability shall be a lien on property
27 owned by the maintenance association member and
28 designated in the maintenance association document.

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

[Handwritten signature]

Chairman Senate Committee

Ernest C Moore

Chairman House Committee

Originating in the House.

Takes effect from passage.

[Handwritten signature]

Clerk of the Senate

Donald L. Jeff

Clerk of the House of Delegates

[Handwritten signature]

President of the Senate

[Handwritten signature]

Speaker of the House of Delegates

The within is approved this the 29th day of March 1994.

Gaston Caperton

Governor

PRESENTED TO THE
GOVERNOR

Date 3/25/94
Time 10:11 am