WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED

SENATE BILL NO. 312

(By Senators Schoonover & Halliday)

PASSED March 11, 1994
In Effect 90 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 allowing municipalities to offer fire protection services to property within the county; and providing that when a municipality provides fire services to any property outside the corporate limits, it may provide the same fire services under contract to other property within the state.

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 servi-
ces in the prevention and extinguishment of fires upon property located within the state. A municipality may contract beyond its immediate boundary 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 commission-er. 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 its boundary 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. A municipality providing fire services under contract to any property outside its corporate limits may offer fire service under contract to any property within the county if the property owner requests the protection.

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 said section, 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 con-
strued 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 here-
inafter provided as the due date of the first install-
ment 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 insti-
tuted 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 contract, except as to annual payments
which were due prior to the conveyance and which remain unpaid.

(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 the first day of July 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 hereinbefore made.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In 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 enacted this the 30th day of March, 1994.

Governor