

SB 312

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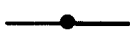
REGULAR SESSION, 1994



ENROLLED

SENATE BILL NO. 312

(By Senators Schoonover & Holliday)



PASSED March 11, 1994

In Effect 90 days from Passage

E N R O L L E D

Senate Bill No. 312

(BY SENATORS SCHOONOVER AND HOLLIDAY)

[Passed March 11, 1994; 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 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.

§8-15-3. Municipalities empowered and authorized to contract for prevention and extinguishment of fires beyond the corporate limits.

1 (a) Any municipality may contract to render servi-

2 ces in the prevention and extinguishment of fires upon
3 property located within the state. A municipality may
4 contract beyond its immediate boundary limit for fire
5 service protection if fire protection is provided in
6 accordance with and under a rural fire protection
7 district plan based upon the fire suppression rating
8 schedule approved by the state insurance commission-
9 er. All rural fire protection district plans shall be
10 approved by the state fire commission. No rural fire
11 protection district plan providing for a municipality to
12 contract beyond its boundary may infringe upon an
13 existing fire department's response area without the
14 written consent of the fire department providing fire
15 services for that area.

16 No contract entered into under the authority of this
17 section may operate to impose any greater obligation
18 or liability upon the municipality than that with
19 respect to property within its corporate limits. Nothing
20 contained in this section may be construed as requir-
21 ing any municipality to contract to render such
22 services. A municipality providing fire services under
23 contract to any property outside its corporate limits
24 may offer fire service under contract to any property
25 within the county if the property owner requests the
26 protection.

27 Any contract entered into under the authority of
28 this section, on or after the first day of July, one
29 thousand nine hundred sixty-nine, shall require the
30 property owner to pay as consideration for said
31 services an annual payment, determined as provided
32 in the remainder of this subsection. If the municipality
33 does not impose a fire service fee on the users of such
34 service within the municipality as authorized in
35 section thirteen, article thirteen of this chapter, the
36 annual payment shall be equivalent to eighty percent
37 of the annual tax levied for current municipal pur-
38 poses upon property within said municipality of like
39 assessed valuation to the property under contract. If
40 the municipality does impose a fire service fee on the
41 users of such service within the municipality, as
42 authorized in said section, the annual payment shall

43 be equivalent to the amount of fire service fee which
44 would be imposed if the property under contract were
45 located within the municipality plus at least fifty
46 percent of the annual tax levied for current municipal
47 purposes upon property within said municipality of
48 like assessed valuation to the property under contract.
49 No contract entered into under the authority of this
50 section, and nothing herein contained, may be con-
51 strued as requiring or permitting any municipality to
52 install or maintain any special additional apparatus or
53 equipment beyond that necessary for the protection of
54 property within its corporate limits.

55 (b) The annual payments due under any such
56 contract are payable on or before the first day of
57 October of each calendar year in which such contract
58 remains in effect, or upon such day as may be here-
59 inafter provided as the due date of the first install-
60 ment of ad valorem taxes. If any annual payment is in
61 default for a period of more than thirty days, it shall
62 bear interest at the same rate as that provided for
63 delinquent property taxes and shall be a lien upon the
64 property under contract if a notice of such lien is
65 recorded in the proper deed of trust book in the office
66 of the clerk of the county commission of the county in
67 which such property or the major portion thereof is
68 located. Such lien is void at the expiration of two years
69 after such defaulted annual payment became due,
70 unless within such two-year period a civil action
71 seeking equitable relief to enforce the lien was insti-
72 tuted by the municipality. The municipality may by
73 civil action collect any annual payment and the
74 interest thereon at any time within five years after
75 such payment became due; and upon default in any
76 annual payment, the municipality may cancel the
77 contract involved.

78 (c) Any contract made under the authority of this
79 section shall inure to the benefit of and be binding
80 upon the successors in title of the person making the
81 same contract; and such person, upon conveying the
82 property subject to such contract, is no longer liable
83 under such contract, except as to annual payments

84 which were due prior to the conveyance and which
85 remain unpaid.

86 (d) Any property owner may cancel any such con-
87 tract with respect to the property of such owner upon
88 giving a thirty-day written notice to the municipality,
89 if the owner is not in default with respect to any
90 annual payment due thereunder, except that if such
91 notice is given subsequent to the first day of July of
92 any calendar year, the next succeeding annual pay-
93 ment shall be made by the property owner as soon as
94 the amount thereof is ascertainable. Upon cancellation
95 as aforesaid, the municipality shall deliver to the
96 property owner a recordable release discharging such
97 owner and such property from any further lien or
98 obligation with respect to the annual payments. The
99 annual payments due under any such contract shall be
100 made to the officials as the municipality, in the
101 contract, designates to receive them, who likewise may
102 receive notice of cancellation and execute upon behalf
103 of the municipality the release for which provision is
104 hereinbefore made.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Ernest E. Moore
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within *is approved* this the *30th*
day of *March*, 1994.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/64

Time 4:48