

HB 2027

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Com. Sub. for
HOUSE BILL No. 2027

(By Delegates Faircloth + Manuel)



Passed March 2, 1995

In Effect 90 Days From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 2027

(BY DELEGATES FAIRCLOTH AND MANUEL)

[Passed March 2, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two and three, article twelve-a, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to state and public roads; defining terms; establishment of maintenance associations along state or public roads in unincorporated areas; the installation of street lights as a permissible improvement by maintenance associations; requiring approval of the commissioner of highways for improvements to the state road system; authorizing petitions for state and public road maintenance, public hearings and notice requirements; right of appeal and requirement to post bond.

Be it enacted by the Legislature of West Virginia:

That sections one, two and three, article twelve-a, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 12A. MAINTENANCE ASSOCIATIONS.

§7-12A-1. Definitions.

1 In this article, the following terms shall have the

2 meanings ascribed to them:

3 (1) "Expressway" means a road that serves major
4 intrastate and interstate travel, including federal interstate
5 routes.

6 (2) "Feeder" means a road that serves community to
7 community travel or collects and feeds traffic to the
8 higher systems or both.

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

11 (4) "Maintenance association member" means any
12 person owning residential property that fronts on either
13 side of a road which is designated by a maintenance
14 association document.

15 (5) "Maintenance association documents" means
16 documents approved by the county commission as
17 meeting the requirements of this article and filed with the
18 clerk of the county commission.

19 (6) "Park and forest road" means a road that serves
20 travel within state parks, state forests and public hunting
21 and fishing areas.

22 (7) "Public roads" means all roads and bridges under
23 the control of the county commission or the governing
24 body of a municipality.

25 (8) "State local service road" means localized arterial
26 and spur roads which provide land access and socioeco-
27 nomic benefits to abutting properties.

28 (9) "State road" means and includes all roads
29 classified and prescribed as either expressway, trunkline,
30 feeder, park and forest or state local service roads.

31 (10) "State road system" means roads that are
32 functionally classified into five categories as follows: (1)
33 Expressway; (2) trunkline; (3) feeder; (4) state local
34 service; and (5) park and forest.

35 (11) "Trunkline" means a road that serves major city
36 to city travel.

§7-12A-2. Purpose of the maintenance association.

1 Maintenance associations may be established in any
2 county outside an incorporated area to protect the health,
3 safety and welfare of persons and the general public
4 located within the designated maintenance association
5 area. The maintenance association shall be created with
6 the objective of establishing and maintaining improve-
7 ments for the area designated in a petition filed pursuant
8 to section three of this article, which may include
9 constructing and maintaining shared streets, drainage
10 facilities, sidewalks, water and sewer systems, signs, street
11 lights and other improvements necessary for the pro-
12 tection of health, safety and welfare of the general public:
13 *Provided*, That such improvements made to the state road
14 system shall be made only as specified and approved by
15 the commissioner of highways.

§7-12A-3. Petition to establish maintenance association.

1 (a) A petition in writing may be made to the county
2 commission that duly verifies that sixty percent of the
3 persons owning property on both sides of any orphan
4 road, subdivision road, state road or public road in any
5 unincorporated area request the approval of the formation
6 of a maintenance association. The petition shall be
7 accompanied by the proposed maintenance association's
8 recordable documents that establish the association.

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

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

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

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

27 (3) The maintenance association document addresses
28 the maintenance association purpose; and

29 (4) The proposed maintenance association will result
30 in special benefits to all owners of residential property
31 abutting on said orphan road, subdivision road, state road
32 or public road.

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

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

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

Randy Schoover
Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Harold E. Thomas
Clerk of the Senate

Donald L. Hopp
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

Robert C. Calvert
Speaker of the House of Delegates

The within is approved this the 14th
day of March, 1995.

Gaston Caperton
Governor



PRESENTED TO THE

GOVERNOR

Date 3/9/95

Time 3:26 pm