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
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
meanings ascribed to them:

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

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

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

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

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

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

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

(8) "State local service road" means localized arterial and spur roads which provide land access and socio-economic benefits to abutting properties.

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

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

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

§7-12A-2. Purpose of the maintenance association.
Maintenance associations may be established in any county outside an incorporated area to protect the health, safety and welfare of persons and the general public located within the designated maintenance association area. The maintenance association shall be created with the objective of establishing and maintaining improvements for the area designated in a petition filed pursuant to section three of this article, which may include constructing and maintaining shared streets, drainage facilities, sidewalks, water and sewer systems, signs, street lights and other improvements necessary for the protection of health, safety and welfare of the general public: Provided, That such improvements made to the state road system shall be made only as specified and approved by the commissioner of highways.

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

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

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

(c) At the time and place set for hearing protests, the county commission may examine witnesses and consider other evidence to show that:
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   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
   34 The commission shall within ten days thereafter enter
   35 a formal order stating its decision.
   36
   37 (d) Any owner of residential property abutting upon
   38 said orphan road, subdivision road, state road or public
   39 road aggrieved by such order shall have the right to review
   40 the order on the record made before the county
   41 commission by filing a petition with the clerk of the
   42 circuit court within ten days after the entry of such order.
   43 The owner shall give bond in an amount to be fixed by
   44 the circuit court sufficient to pay costs or expenses
   45 incurred by the court and the maintenance association
   46 upon appeal if the order of the county commission is
   47 affirmed. The circuit court shall proceed to review the
   48 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 Schooner  
Chairman Senate Committee

Ernest E. Moore  
Chairman House Committee

Originating in the House.

Taken effect ninety days from passage.

Harold J. Head
Clerk of the Senate

Donald L. Heff  
Clerk of the House of Delegates

Earl Ray Tomblin  
President of the Senate

Speaker of the House of Delegates

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

Governor
PRESENTED TO THE
GOVERNOR
Date 3/9/95
Time 3:26 pm