

FILED

2001 MAY -2 P 10: 21

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 3142

(By Delegates Proudfoot, Amores,
Douglas, Manual, Compton and Fahey)

Passed April 14, 2001

In Effect Ninety Days from Passage

FILED

2001 MAY -2 P 10: 21

OFFICE WEST VIRGINIA
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H. B. 3142

(BY DELEGATES PROUDFOOT, AMORES,
DOUGLAS, MANUAL, COMPTON AND FAHEY)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-gg; to amend and reenact section five, article twelve, chapter eight of said code; all relating to authorizing counties and municipalities to require visible posting of the addresses for factory-built homes in a factory-built home rental community with at least ten factory-built homes; providing that the county or municipality may assign a numeric designation for an address if none exists for a factory-built home; authorizing municipalities and private solid waste motor carriers to negotiate an agreement for continued private solid waste collection services in an annexed area, and limiting the agreement to a period of no more than three years.

Be it enacted by the Legislature of West Virginia:

That article one, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section three-gg; and that section five, article twelve, chapter eight of said code be amended and reenacted, all to read as follows:

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Enr. H. B. 3142]

SECRETARY OF STATE
OFFICE OF THE SECRETARY OF STATE
ALBANY, NEW YORK

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 1. COUNTY COMMISSIONS GENERALLY.

§7-1-3gg. Authority to require posting of commercial and residential addresses within municipal boundaries.

1 In addition to all other powers now conferred by law upon
2 county commissions, the commissions are hereby authorized to
3 require owners, residents or occupants of factory-built homes
4 situated on a factory-built home rental community with at least
5 ten factory-built homes to visibly post the specific numeric
6 portion of the address of each factory-built home on the
7 immediate premises of the factory-built home of sufficient size
8 to be visible from the adjoining street: *Provided*, That if no
9 numeric or other specific designation of an address exists for a
10 factory-built home subject to the authorization granted by this
11 section, the commission has the authority to provide a numeric
12 or other specific designation of an address for the factory-built
13 home and require that it be posted in accordance with the
14 authority otherwise granted by this section.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-5. General powers of every municipality and the governing body thereof.

1 In addition to the powers and authority granted by: (i) The
2 constitution of this state; (ii) other provisions of this chapter;
3 (iii) other general law; and (iv) any charter, and to the extent
4 not inconsistent or in conflict with any of the foregoing except
5 special legislative charters, every municipality and the govern-
6 ing body thereof shall have plenary power and authority therein

7 by ordinance or resolution, as the case may require, and by
8 appropriate action based thereon:

9 (1) To lay off, establish, construct, open, alter, curb, recurb,
10 pave or repave and keep in good repair, or vacate, discontinue
11 and close, streets, avenues, roads, alleys, ways, sidewalks,
12 drains and gutters, for the use of the public, and to improve and
13 light the same, and have them kept free from obstructions on or
14 over them which have not been authorized pursuant to the
15 succeeding provisions of this subdivision (1); and, subject to
16 such terms and conditions as the governing body shall pre-
17 scribe, to permit, without in any way limiting the power and
18 authority granted by the provisions of article sixteen of this
19 chapter, any person to construct and maintain a passageway,
20 building or other structure overhanging or crossing the airspace
21 above a public street, avenue, road, alley, way, sidewalk or
22 crosswalk, but before any permission for any person to con-
23 struct and maintain a passageway, building or other structure
24 overhanging or crossing any airspace is granted, a public
25 hearing thereon shall be held by the governing body after
26 publication of a notice of the date, time, place and purpose of
27 the public hearing has been published as a Class I legal adver-
28 tisement in compliance with the provisions of article three,
29 chapter fifty-nine of this code, and the publication area for the
30 publication shall be the municipality: *Provided*, That any permit
31 so granted shall automatically cease and terminate in the event
32 of abandonment and nonuse thereof for the purposes intended
33 for a period of ninety days, and all rights therein or thereto shall
34 revert to the municipality for its use and benefit;

35 (2) To provide for the opening and excavation of streets,
36 avenues, roads, alleys, ways, sidewalks, crosswalks and public
37 places belonging to the municipality and regulate the conditions
38 under which any such opening may be made;

39 (3) To prevent by proper penalties the throwing, depositing
40 or permitting to remain on any street, avenue, road, alley, way,

41 sidewalk, square or other public place any glass, scrap iron,
42 nails, tacks, wire, other litter, or any offensive matter or
43 anything likely to injure the feet of individuals or animals or the
44 tires of vehicles;

45 (4) To regulate the use of streets, avenues, roads, alleys,
46 ways, sidewalks, crosswalks and public places belonging to the
47 municipality, including the naming or renaming thereof, and to
48 consult with local postal authorities, the division of highways
49 and the directors of county emergency communications centers
50 to assure uniform, nonduplicative addressing on a permanent
51 basis;

52 (5) To regulate the width of streets, avenues and roads, and,
53 subject to the provisions of article eighteen of this chapter, to
54 order the sidewalks, footways and crosswalks to be paved,
55 repaved, curbed or recurbed and kept in good order, free and
56 clean, by the owners or occupants thereof or of the real property
57 next adjacent thereto;

58 (6) To establish, construct, alter, operate and maintain, or
59 discontinue, bridges, tunnels and ferries and approaches thereto;

60 (7) To provide for the construction and maintenance of
61 water drains, the drainage of swamps or marshlands and
62 drainage systems;

63 (8) To provide for the construction, maintenance and
64 covering over of watercourses;

65 (9) To control and administer the waterfront and waterways
66 of the municipality, and to acquire, establish, construct, operate
67 and maintain and regulate flood control works, wharves and
68 public landings, warehouses and all adjuncts and facilities for
69 navigation and commerce and the utilization of the waterfront
70 and waterways and adjacent property;

71 (10) To prohibit the accumulation and require the disposal
72 of garbage, refuse, debris, wastes, ashes, trash and other similar
73 accumulations whether on private or public property: *Provided,*
74 That, in the event the municipality annexes an area which has
75 been receiving solid waste collection services from a certifi-
76 cated solid waste motor carrier, the municipality and the solid
77 waste motor carrier may negotiate an agreement for continua-
78 tion of the private solid waste motor carrier services for a
79 period of time, not to exceed three years, during which time the
80 certificated solid waste motor carrier may continue to provide
81 exclusive solid waste collection services in the annexed
82 territory;

83 (11) To construct, establish, acquire, equip, maintain and
84 operate incinerator plants and equipment and all other facilities
85 for the efficient removal and destruction of garbage, refuse,
86 wastes, ashes, trash and other similar matters;

87 (12) To regulate or prohibit the purchase or sale of articles
88 intended for human use or consumption which are unfit for use
89 or consumption, or which may be contaminated or otherwise
90 unsanitary;

91 (13) To prevent injury or annoyance to the public or
92 individuals from anything dangerous, offensive or unwhole-
93 some;

94 (14) To regulate the keeping of gunpowder and other
95 combustibles;

96 (15) To make regulations guarding against danger or
97 damage by fire;

98 (16) To arrest, convict and punish any individual for
99 carrying about his or her person any revolver or other pistol,
100 dirk, bowie knife, razor, slingshot, billy, metallic or other false
101 knuckles, or any other dangerous or other deadly weapon of like
102 kind or character;

103 (17) To arrest, convict and punish any person for importing,
104 printing, publishing, selling or distributing any pornographic
105 publications;

106 (18) To arrest, convict and punish any person for keeping
107 a house of ill fame, or for letting to another person any house or
108 other building for the purpose of being used or kept as a house
109 of ill fame, or for knowingly permitting any house owned by
110 him or her or under his or her control to be kept or used as a
111 house of ill fame, or for loafing, boarding or loitering in a house
112 of ill fame, or frequenting same;

113 (19) To prevent and suppress conduct and practices which
114 are immoral, disorderly, lewd, obscene and indecent;

115 (20) To prevent the illegal sale of intoxicating liquors,
116 drinks, mixtures and preparations;

117 (21) To arrest, convict and punish any individual for
118 driving or operating a motor vehicle while intoxicated or under
119 the influence of liquor, drugs or narcotics;

120 (22) To arrest, convict and punish any person for gambling
121 or keeping any gaming tables, commonly called "A, B, C," or
122 "E, O," table or faro bank or keno table, or table of like kind,
123 under any denomination, whether the gaming table be played
124 with cards, dice or otherwise, or any person who shall be a
125 partner or concerned in interest, in keeping or exhibiting the
126 table or bank, or keeping or maintaining any gaming house or
127 place, or betting or gambling for money or anything of value;

128 (23) To provide for the elimination of hazards to public
129 health and safety and to abate or cause to be abated anything
130 which in the opinion of a majority of the governing body is a
131 public nuisance;

132 (24) To license, or for good cause to refuse to license in a
133 particular case, or in its discretion to prohibit in all cases, the

134 operation of pool and billiard rooms and the maintaining for
135 hire of pool and billiard tables notwithstanding the general law
136 as to state licenses for any such business and the provisions of
137 section four, article thirteen of this chapter; and when the
138 municipality, in the exercise of its discretion, refuses to grant a
139 license to operate a pool or billiard room, mandamus may not
140 lie to compel the municipality to grant the license unless it shall
141 clearly appear that the refusal of the municipality to grant a
142 license is discriminatory or arbitrary; and in the event that the
143 municipality determines to license any business, the municipal-
144 ity has plenary power and authority, and it shall be the duty of
145 its governing body to make and enforce reasonable ordinances
146 regulating the licensing and operation of the businesses;

147 (25) To protect places of divine worship and to preserve
148 peace and order in and about the premises where held;

149 (26) To regulate or prohibit the keeping of animals or fowls
150 and to provide for the impounding, sale or destruction of
151 animals or fowls kept contrary to law or found running at large;

152 (27) To arrest, convict and punish any person for cruelly,
153 unnecessarily or needlessly beating, torturing, mutilating,
154 killing or overloading or overdriving, or willfully depriving of
155 necessary sustenance, any domestic animal;

156 (28) To provide for the regular building of houses or other
157 structures, for the making of division fences by the owners of
158 adjacent premises and for the drainage of lots by proper drains
159 and ditches;

160 (29) To provide for the protection and conservation of
161 shade or ornamental trees, whether on public or private prop-
162 erty, and for the removal of trees or limbs of trees in a danger-
163 ous condition;

164 (30) To prohibit with or without zoning the location of
165 occupied house trailers or mobile homes in certain residential
166 areas;

167 (31) To regulate the location and placing of signs, bill-
168 boards, posters and similar advertising;

169 (32) To erect, establish, construct, acquire, improve,
170 maintain and operate a gas system, a waterworks system, an
171 electric system, or sewer system and sewage treatment and
172 disposal system, or any combination of the foregoing (subject
173 to all of the pertinent provisions of articles nineteen and twenty
174 of this chapter and particularly to the limitations or qualifica-
175 tions on the right of eminent domain set forth in articles
176 nineteen and twenty), within or without the corporate limits of
177 the municipality, except that the municipality may not erect any
178 system partly without the corporate limits of the municipality
179 to serve persons already obtaining service from an existing
180 system of the character proposed, and where the system is by
181 the municipality erected, or has heretofore been so erected,
182 partly within and partly without the corporate limits of the
183 municipality, the municipality has the right to lay and collect
184 charges for service rendered to those served within and those
185 served without the corporate limits of the municipality, and to
186 prevent injury to the system or the pollution of the water thereof
187 and its maintenance in a healthful condition for public use
188 within the corporate limits of the municipality;

189 (33) To acquire watersheds, water and riparian rights, plant
190 sites, rights-of-way and any and all other property and appurte-
191 nances necessary, appropriate, useful, convenient or incidental
192 to any system, waterworks or sewage treatment and disposal
193 works, as aforesaid, subject to all of the pertinent provisions of
194 articles nineteen and twenty of this chapter;

195 (34) To establish, construct, acquire, maintain and operate
196 and regulate markets, and prescribe the time of holding the
197 same;

198 (35) To regulate and provide for the weighing of articles
199 sold or for sale;

200 (36) To establish, construct, acquire, maintain and operate
201 public buildings, municipal buildings or city halls, auditoriums,
202 arenas, jails, juvenile detention centers or homes, motor vehicle
203 parking lots, or any other public works;

204 (37) To establish, construct, acquire, provide, equip,
205 maintain and operate recreational parks, playgrounds and other
206 recreational facilities for public use, and in this connection also
207 to proceed in accordance with the provisions of article two,
208 chapter ten of this code;

209 (38) To establish, construct, acquire, maintain and operate
210 a public library or museum or both for public use;

211 (39) To provide for the appointment and financial support
212 of a library board in accordance with the provisions of article
213 one, chapter ten of this code;

214 (40) To establish and maintain a public health unit in
215 accordance with the provisions of section two, article two,
216 chapter sixteen of this code, which unit shall exercise its powers
217 and perform its duties subject to the supervision and control of
218 the West Virginia board of health and state bureau for public
219 health;

220 (41) To establish, construct, acquire, maintain and operate
221 hospitals, sanitarium and dispensaries;

222 (42) To acquire, by purchase, condemnation or otherwise,
223 land within or near the corporate limits of the municipality for
224 providing and maintaining proper places for the burial of the
225 dead and to maintain and operate the same and regulate
226 interments therein upon terms and conditions as to price and
227 otherwise as may be determined by the governing body, and, in
228 order to carry into effect the authority the governing body may
229 acquire any cemetery or cemeteries already established;

230 (43) To exercise general police jurisdiction over any
231 territory without the corporate limits owned by the municipality
232 or over which it has a right-of-way;

233 (44) To protect and promote the public morals, safety,
234 health, welfare and good order;

235 (45) To adopt rules for the transaction of business and the
236 government and regulation of its governing body;

237 (46) Except as otherwise provided, to require and take
238 bonds from any officers, when considered necessary, payable
239 to the municipality, in its corporate name, with such sureties
240 and in a penalty as the governing body may see fit, conditioned
241 upon the faithful discharge of their duties;

242 (47) To require and take from the employees and contrac-
243 tors such bonds in a penalty, with such sureties and with such
244 conditions, as the governing body may see fit;

245 (48) To investigate and inquire into all matters of concern
246 to the municipality or its inhabitants;

247 (49) To establish, construct, require, maintain and operate
248 such instrumentalities, other than free public schools, for the
249 instruction, enlightenment, improvement, entertainment,
250 recreation and welfare of the municipality's inhabitants as the
251 governing body may consider necessary or appropriate for the
252 public interest;

253 (50) To create, maintain and operate a system for the
254 enumeration, identification and registration, or either, of the
255 inhabitants of the municipality and visitors thereto, or the
256 classes thereof as may be considered advisable;

257 (51) To require owners, residents or occupants of factory-
258 built homes situated on a factory-built home rental community

259 with at least ten factory-built homes, to visibly post the specific
260 numeric portion of the address of each factory-built home on
261 the immediate premises of the factory-built home of sufficient
262 size to be visible from the adjoining street: *Provided*, That in
263 the event no numeric or other specific designation of an address
264 exists for a factory-built homes to the authorization granted by
265 this subdivision, the municipality has the authority to provide
266 a numeric or other specific designation of an address for the
267 factory-built home and require that it be posted in accordance
268 with the authority otherwise granted by this section.

269 (52) To appropriate and expend not exceeding twenty-five
270 cents per capita per annum for advertising the municipality and
271 the entertainment of visitors;

272 (53) To conduct programs to improve community relations
273 and public relations generally and to expend municipal revenue
274 for such purposes;

275 (54) To reimburse applicants for employment by the
276 municipality for travel and other reasonable and necessary
277 expenses actually incurred by the applicants in traveling to and
278 from the municipality to be interviewed;

279 (55) To provide revenue for the municipality and appropri-
280 ate the same to its expenses;

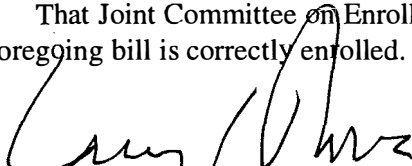
281 (56) To create and maintain an employee benefits fund,
282 which may not exceed one tenth of one percent of the annual
283 payroll budget for general employee benefits and which is set
284 up for the purpose of stimulating and encouraging employees
285 to develop and implement cost-saving ideas and programs, and
286 to expend moneys from the fund for these purposes;

287 (57) To enter into reciprocal agreements with governmental
288 subdivisions or agencies of any state sharing a common border
289 for the protection of people and property from fire and for

290 emergency medical services and for the reciprocal use of
291 equipment and personnel for these purposes; and

292 (58) To provide penalties for the offenses and violations of
293 law mentioned in this section, subject to the provisions of
294 section one, article eleven of this chapter, and such penalties
295 may not exceed any penalties provided in this chapter and
296 chapter sixty-one of this code for like offenses and violations.

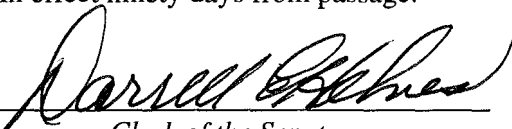
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

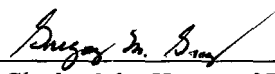

Chairman Senate Committee

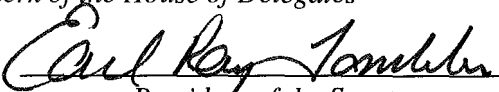

Chairman House Committee


Originating in the House.

In effect ninety days from passage.

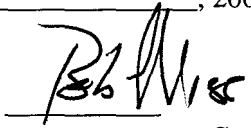

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within disapproved bill this the 2
day of May, 2001.


Governor

PRESENTED TO THE

GOVERNOR

Date 5/1/01

Time 2:40pm