WEST VIRGINIA LEGISLATURE
Regular Session, 2001

ENROLLED
Committee Substitute for
SENATE BILL NO. 428

(By Senators Snyder and Unger)

PASSED April 14, 2001

In Effect 90 days from Passage
AN ACT to amend and reenact section six, article twenty, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section five-b, article three, chapter twenty-nine of said code, all relating to inspection and standards of inspecting structures; removing the requirement that counties, as a prior condition to assessing levy impact fees, are required to include within their building permit plan that they will maintain a systematic and ongoing inspection of existing structures; and permitting counties and municipalities to adopt the state building code only to the extent that the code is prospective only and not retroactive in its application.

Be it enacted by the Legislature of West Virginia:
That sections six, article twenty, chapter seven of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, be amended and reenacted; and that section five-b,
article three, chapter twenty-nine of said code be amended and
reenacted, all to read as follows:

CHAPTER 7.
COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 20. FEES AND EXPENDITURES FOR COUNTY DEVELOPMENT.

§7-20-6. Criteria and requirements necessary to implement
collection of fees.

1 (a) As a prerequisite to authorizing counties to levy
2 impact fees related to population growth and public
3 service needs, counties shall meet the following require-
4 ments:

5 (1) A demonstration that population growth rate history
6 as determined from the most recent base decennial census
7 counts of a county, utilizing generally approved standard
8 statistical estimate procedures, in excess of one percent
9 annually averaged over a five-year period since the last
10 decennial census count; or a demonstration that a total
11 population growth rate projection of one percent per
12 annum for an ensuing five-year period, based on standard
13 statistical estimate procedures, from the current official
14 population estimate of the county;

15 (2) Adopting a countywide comprehensive plan;

16 (3) Reviewing and updating any comprehensive plan at
17 no less than five-year intervals;

18 (4) Drafting and adopting a comprehensive zoning
19 ordinance;

20 (5) Drafting and adopting a subdivision control ordi-
21 nance;
(6) Keeping in place a formal building permit and review system which provides a process to regulate the authorization of applications relating to construction or structural modification. The county shall adopt, pursuant to section three-n, article one of this chapter, the state building code into any such building permit and review system; and

(7) Providing an improvement program which shall include:

(A) Developing and maintaining a list within the county of particular sites with development potential;

(B) Developing and maintaining standards of service for capital improvements which are fully or partially funded with revenues collected from impact fees; and

(C) Lists of proposed capital improvements from all areas, containing descriptions of any such proposed capital improvements, cost estimates, projected time frames for constructing such improvements and proposed or anticipated funding sources.

(b) Capital improvement programs may include provisions to provide for the expenditure of impact fees for any legitimate county purpose. This may include the expenditure of fees for partial funding of any particular capital improvement where other funding exists from any source other than the county or exists in combination with other funds available to the county: Provided, That for such expenditures to be considered legitimate, no county or other local authority may deny or withhold any reasonable benefit that may be derived therefrom from any development project for which such impact fee or fees have been paid.

(c) Capital improvement programs for public elementary and secondary school facilities may include provisions to spend impact fees based on a computation related to the following: (1) The existing local tax base; and (2) the adjusted value of accumulated infrastructure investment,
based on net depreciation, and any remaining debt owed thereon. Any such computation must establish the value of any equity shares in the net worth of an impacted school system facility, regardless of the existence of any need to expand such facility. Impact fee revenues may only be used for capital replacement or expansion.

(d) Additional development areas may be added to any plan or capital improvements program provided for hereunder if a county government so desires. The standards governing the construction or structural modification for any such additional area shall not deviate from those adopted and maintained at the time such addition is made.

(e) The county may modify annually any capital improvements plan in addition to any impact fee rates based thereon, pursuant to the following:

(1) The number and extent of development projects begun in the past year;

(2) The number and extent of public facilities existing or under construction;

(3) The changing needs of the general population;

(4) The availability of any other funding sources; and

(5) Any other relevant and significant factor applicable to a legitimate goal or goals of any such capital improvement plan.

CHAPTER 29.

MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-5b. Promulgation of rules and statewide building code.

(a) The state fire commission shall propose rules for legislative approval in accordance with the provisions of
article three, chapter twenty-nine-a of this code to safeguard life and property and to ensure the quality of construction of all structures erected or renovated throughout this state through the adoption of a state building code. The rules shall be in accordance with standard safe practices so embodied in widely recognized standards of good practice for building construction and all aspects related thereto and have force and effect in those counties and municipalities adopting the state building code: Provided, That each county or municipality shall have the election to adopt the code to the extent that it is only prospective and not retroactive in its application.

(b) The state fire commission has authority to propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code regarding building construction, renovation and all other aspects as related to the construction and mechanical operations of a structure. The rules shall be known as the "State Building Code".

(c) For the purpose of this section, the term "building code" is intended to include all aspects of safe building construction and mechanical operations and all safety aspects related thereto. Whenever any other state law, county or municipal ordinance or regulation of any agency thereof is more stringent or imposes a higher standard than is required by the state building code, the provisions of the state law, county or municipal ordinance or regulation of any agency thereof governs if they are not inconsistent with the laws of West Virginia and are not contrary to recognized standards and good engineering practices. In any question, the decision of the state fire commission determines the relative priority of any such state law, county or municipal ordinance or regulation of any agency thereof and determines compliance with state building code by officials of the state, counties, municipalities and political subdivisions of the state.
(d) Enforcement of the provisions of the state building code is the responsibility of the respective local jurisdiction. Also, any county or municipality may enter into an agreement with any other county or municipality to provide inspection and enforcement services: Provided, That any county or municipality may adopt the state building code with or without adopting the BOCA national property maintenance code.

(e) After the state fire commission has promulgated rules as provided in this section, each county or municipality intending to adopt the state building code shall notify the state fire commission of its intent.

(f) The state fire commission may conduct public meetings in each county or municipality adopting the state building code to explain the provisions of the rules.

(g) The provisions of the state building code relating to the construction, repair, alteration, restoration and movement of structures are not mandatory for existing buildings and structures identified and classified by the state register of historic places under the provisions of section eight, article one, chapter twenty-nine of this code or the national register of historic places, pursuant to Title XVI, section 470a of the United States Code. Prior to renovations regarding the application of the state building code, in relation to historical preservation of structures identified as such, the authority having jurisdiction shall consult with the division of culture and history, state historic preservation office. The final decision is vested in the state fire commission. Additions constructed on a historic building are not excluded from complying with the state building code.
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

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Governor