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2002 APR -1 A 10: 10

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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**WEST VIRGINIA LEGISLATURE**

*Regular Session, 2002*



**ENROLLED**

*Committee Substitute for*

SENATE BILL NO. 679

(By Senators Burnette and Anderson )



PASSED March 9, 2002

In Effect ninety days from Passage

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2002 APR -1 A 10: 10

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## ENROLLED

COMMITTEE SUBSTITUTE

FOR

### Senate Bill No. 679

(SENATORS BURNETTE AND ANDERSON, *original sponsors*)

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[Passed March 9, 2002; in effect ninety days from passage.]

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AN ACT to amend and reenact sections three, six and eight, article twenty-three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to intergovernmental relations generally; providing that certain separate legal or administrative entities are public corporations; extending the duration of certain intergovernmental agreements indefinitely; and limiting to one fiscal year certain other intergovernmental agreements.

*Be it enacted by the Legislature of West Virginia:*

That sections three, six and eight, article twenty-three, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 23. INTERGOVERNMENTAL RELATIONS - CONTRACTING AND  
JOINT ENTERPRISES.**

**PART II. INTERGOVERNMENTAL AGREEMENTS AND CONTRACTS.**

**§8-23-3. Intergovernmental agreements generally.**

1 Any power or powers, privilege or privileges, authority  
2 or undertaking, exercised or capable of exercise, or which  
3 may be engaged in, and any public works which may be  
4 undertaken, by a public agency acting alone may be  
5 exercised, enjoyed, engaged in or undertaken jointly with  
6 any other public agency which could likewise act alone.

7 Any two or more public agencies may enter into a  
8 written agreement with one another for joint or coopera-  
9 tive action pursuant to the provisions of this section.  
10 Appropriate action by ordinance, resolution or otherwise  
11 pursuant to law of the governing bodies of the participat-  
12 ing public agencies shall be necessary before any such  
13 agreement shall become effective. Any separate legal or  
14 administrative entity established hereunder is a public  
15 corporation and may exist for the length of time set forth  
16 in the intergovernmental agreement.

17 Any such agreement shall specify the following:

18 (1) Its duration;

19 (2) The precise organization, composition and nature of  
20 any separate legal or administrative entity created  
21 thereby, together with the powers delegated thereto,  
22 provided such entity may be legally created;

23 (3) Its purpose or purposes;

24 (4) The manner of financing the joint or cooperative  
25 undertaking and of establishing and maintaining a budget  
26 therefor;

27 (5) The permissible method or methods to be employed  
28 in accomplishing the partial or complete termination of

29 the agreement and for disposing of property upon such  
30 partial or complete termination; and

31 (6) Any other necessary and proper matters.

32 In the event that the agreement does not establish a  
33 separate legal or administrative entity to conduct the joint  
34 or cooperative undertaking, the agreement shall, in  
35 addition to the items enumerated above, contain the  
36 following:

37 (1) Provision for an administrator or a joint board  
38 responsible for administering the joint or cooperative  
39 undertaking and in the event a joint board is provided for,  
40 there shall be a representative on the board from each of  
41 the public agencies which are party to the agreement; and

42 (2) The manner of acquiring, holding and disposing of  
43 real and personal property used in the joint or cooperative  
44 undertaking.

45 No agreement made pursuant to the provisions of this  
46 section shall relieve any public agency of any obligation or  
47 responsibility imposed upon it by law, except that to the  
48 extent of actual and timely performance thereof by a joint  
49 board or other legal or administrative entity created by an  
50 agreement made hereunder, said performance may be  
51 offered in satisfaction of the obligation or responsibility.

52 Every agreement made pursuant to the provisions of this  
53 section shall, prior to and as a condition precedent to its  
54 becoming effective, be submitted to the attorney general  
55 who shall determine whether the agreement is in proper  
56 form and is compatible with the laws of this state. The  
57 attorney general shall approve any such agreement  
58 submitted to him unless he shall find that it does not meet  
59 the conditions set forth herein, in which event he shall  
60 detail in writing to the governing bodies of the public  
61 agencies concerned the specific respects in which the  
62 proposed agreement fails to meet the requirements of law.  
63 Failure to disapprove any such agreement so submitted

64 within thirty days of its submission shall constitute  
65 approval thereof.

66 The financing of joint projects by agreement shall be as  
67 provided by law.

**§8-23-6. Appropriations; furnishing of property, personnel and services.**

1 Any public agency entering into an agreement pursuant  
2 to the provisions of section three of this article is hereby  
3 empowered and authorized to appropriate funds to, and to  
4 sell, lease, transfer or otherwise supply real or personal  
5 property to, and to furnish personnel and services to, the  
6 administrative joint board or other legal or administrative  
7 entity created to operate the joint or cooperative under-  
8 taking if the public agency provides the funds and prop-  
9 erty in compliance with the provisions of this code or other  
10 applicable law. The board or entity is hereby empowered  
11 and authorized to receive, expend and utilize the same.

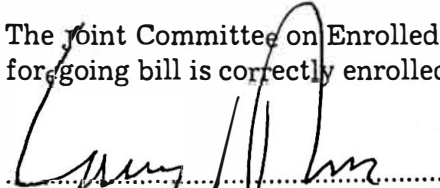
**§8-23-8. Duration of intergovernmental agreements and contracts.**

1 (a) If an intergovernmental agreement, entered into in  
2 accordance with the provisions of section three of this  
3 article, and if a contract for the performance of a service,  
4 activity or undertaking entered into in accordance with  
5 the provisions of section seven of this article does not  
6 create a financial obligation for a public agency except as  
7 provided by statute or other applicable law, the agreement  
8 or contract is of a duration as is specified in the agreement  
9 or contract.

10 (b) If an intergovernmental agreement entered into in  
11 accordance with the provisions of section three of this  
12 article, and if any contract for the performance of a  
13 service, activity or undertaking entered into in accordance  
14 with the provisions of section seven of this article, creates  
15 a financial obligation for a public agency, the agreement  
16 or contract is one fiscal year, but the same may be annu-

17 ally renewed each fiscal year: *Provided*, That any such  
18 agreement or contract may be for such period in excess of  
19 one fiscal year as is specified in the agreement or contract,  
20 if such agreement or contract is ratified by a majority of  
21 the legal votes cast by the qualified voters of the several  
22 jurisdictions represented by the contracting parties voting  
23 separately at a regular or special election.

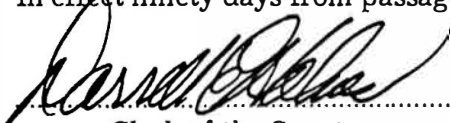
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman Senate Committee

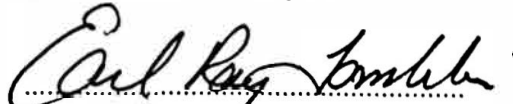
  
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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
.....  
Speaker House of Delegates

The within is approved..... this the 29<sup>th</sup>  
Day of March....., 2002.

  
.....  
Governor

PRESENTED TO THE

COMMISSION

Date: 3/22/02

Time: 10:00am