ENROLLED
Committee Substitute for
SENATE BILL NO. 679

(By Senators Burnett and Anderson)

PASSED March 9, 2002

In Effect ninety days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 679

(SENATORS BURNETTE AND ANDERSON, original sponsors)

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

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 or undertaking, exercised or capable of exercise, or which may be engaged in, and any public works which may be undertaken, by a public agency acting alone may be exercised, enjoyed, engaged in or undertaken jointly with any other public agency which could likewise act alone.

2 Any two or more public agencies may enter into a written agreement with one another for joint or cooperative action pursuant to the provisions of this section. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement shall become effective. Any separate legal or administrative entity established hereunder is a public corporation and may exist for the length of time set forth in the intergovernmental agreement.

3 Any such agreement shall specify the following:

   (1) Its duration;

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

   (3) Its purpose or purposes;

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

   (5) The permissible method or methods to be employed in accomplishing the partial or complete termination of
the agreement and for disposing of property upon such partial or complete termination; and

(6) Any other necessary and proper matters.

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

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

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

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

Every agreement made pursuant to the provisions of this section shall, prior to and as a condition precedent to its becoming effective, be submitted to the attorney general who shall determine whether the agreement is in proper form and is compatible with the laws of this state. The attorney general shall approve any such agreement submitted to him unless he shall find that it does not meet the conditions set forth herein, in which event he shall detail in writing to the governing bodies of the public agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove any such agreement so submitted
within thirty days of its submission shall constitute approval thereof.

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

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

Any public agency entering into an agreement pursuant to the provisions of section three of this article is hereby empowered and authorized to appropriate funds to, and to sell, lease, transfer or otherwise supply real or personal property to, and to furnish personnel and services to, the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking if the public agency provides the funds and property in compliance with the provisions of this code or other applicable law. The board or entity is hereby empowered and authorized to receive, expend and utilize the same.

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

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

(b) If an intergovernmental agreement entered into in accordance with the provisions of section three of this article, and if any contract for the performance of a service, activity or undertaking entered into in accordance with the provisions of section seven of this article, creates a financial obligation for a public agency, the agreement or contract is one fiscal year, but the same may be annu-
ally renewed each fiscal year: Provided, That any such agreement or contract may be for such period in excess of one fiscal year as is specified in the agreement or contract, if such agreement or contract is ratified by a majority of the legal votes cast by the qualified voters of the several jurisdictions represented by the contracting parties voting separately at a regular or special election.
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

The within is approved this the 29th Day of March, 2002.

Governor