WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2002

ENROLLED

SENATE BILL NO. 698

(By Senator Tomblin, Mr. President, et al.)

PASSED March 7, 2002

In Effect Ninety Days From Passage
ENROLLED

Senate Bill No. 698

(BY SENATORS TOMBLIN, MR. PRESIDENT, PLYMALE, JACKSON, MCCABE, BAILEY, WOOTON AND CHAFIN)

[Passed March 7, 2001; in effect ninety days from passage.]

AN ACT to repeal section seven, article two-a, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections five, eight, nine and twelve of said article, all relating to duties of the office of coalfield community development; removing requirements for the office to develop coalfield community impact statements; and authorizing emergency rulemaking.

Be it enacted by the Legislature of West Virginia:

That section seven, article two-a, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections five, eight, nine and twelve of said article be amended and reenacted, all to read as follows:

ARTICLE 2A. OFFICE OF COALFIELD COMMUNITY DEVELOPMENT

The office has and may exercise the following duties, powers and responsibilities:

1. To establish a procedure for developing a community impact statement as provided in section six of this article and to administer the procedure so established;

2. To establish a procedure for determining the assets that could be developed in and maintained by the community to foster its long-term viability as provided in section eight of this article and to administer the procedure so established;

3. To establish a procedure for determining the land and infrastructure needs in the general area of the surface mining operations as provided in section nine of this article and to administer the procedure so established;

4. To establish a procedure to develop action reports and annual updates as provided in section ten of this article and to administer the procedure so established;

5. To determine the need for meetings to be held among the various interested parties in the communities impacted by surface mining operations and, when appropriate, to facilitate the meetings;

6. To establish a procedure to assist property owners in the sale of their property as provided in section eleven of this article and to administer the procedure so established;

7. In conjunction with the division, to maintain and operate a system to receive and address questions, concerns and complaints relating to surface mining; and

8. On its own initiative or at the request of a community in close proximity to a mining operation, or a mining operation, offer assistance to facilitate the development of economic or community assets. Such assistance may
include the preparation of a master land use plan pursuant to the provisions of section nine of this article.

§5B-2A-8. Determining and developing needed community assets.

(a) The office shall determine the community assets that may be developed by the community, county or region to foster its viability when surface mining operations are completed.

(b) Community assets to be identified pursuant to subsection (a) of this section may include the following:

(1) Water and wastewater services;
(2) Developable land for housing, commercial development or other community purposes;
(3) Recreation facilities and opportunities; and
(4) Education facilities and opportunities.

(c) The operator shall be required to prepare and submit to the office the information set forth in this subsection as follows:

(1) A map of the area for which a permit under article three, chapter twenty-two of this code is being sought or has been obtained;
(2) The names of the surface and mineral owners of the property to be mined pursuant to the permit; and
(3) A statement of the post-mining land use for all land which may be affected by the mining operations.

(d) In determining the nature and extent of the needed community assets, the office shall consider at least the following:

(1) An evaluation of the future of the community once mining operations are completed;
(2) The prospects for the long-term viability of any asset developed under this section;

(3) The desirability of foregoing some or all of the asset development required by this section in lieu of the requirements of section nine of this article; and

(4) The extent to which the community, local, state or the federal government may participate in the development of assets the community needs to assure its viability.


(a) The office shall determine the land and infrastructure needs in the general area of the surface mining operations.

(b) For the purposes of this section, the term "general area" shall mean the county or counties in which the mining operations are being conducted or any adjacent county.

(c) To assist the office the operator shall be required to prepare and submit to the office the information set forth in this subsection as follows:

(1) A map of the area for which a permit under article three, chapter twenty-two of this code is being sought or has been obtained;

(2) The names of the surface and mineral owners of the property to be mined pursuant to the permit; and

(3) A statement of the post-mining land use for all land which may be affected by the mining operations.

(d) In making a determination of the land and infrastructure needs in the general area of the mining operations, the office shall consider at least the following:

(1) The availability of developable land in the general area;
(2) The needs of the general area for developable land;

(3) The availability of infrastructure, including, but not limited to, access roads, water service, wastewater service and other utilities;

(4) The amount of land to be mined and the amount of valley to be filled;

(5) The amount, nature and cost to develop and maintain the community assets identified in section eight of this article; and

(6) The availability of federal, state and local grants and low-interest loans to finance all or a portion of the acquisition and construction of the identified land and infrastructure needs of the general area.

(e) In making a determination of the land and infrastructure needs in the general area of the surface mining operations, the office shall give significant weight to developable land on or near existing or planned multilane highways.

(f) The office may secure developable land and infrastructure for a development office or county through the preparation of a master land use plan for inclusion into a reclamation plan prepared pursuant to the provisions of section ten, article three, chapter twenty-two of this code. No provision of this section may be construed to modify requirements of article three of said chapter. Participation in a master land use plan is voluntary.

(1) State, local, county or regional development or redevelopment authorities may determine land and infrastructure needs within their jurisdictions through the development of a master land use plan which incorporates post-mining land use needs that include industrial uses, commercial uses, agricultural uses, public facility uses or recreational facility uses.
(2) A master land use plan must be reviewed by the office of coalfield community development and approved by the division of environmental protection pursuant to section ten, article three, chapter twenty-two of this code before the master land use plan can be implemented.

(3) The required infrastructure component standards needed to accomplish the designated post-mining land uses identified in subdivision one of this subsection shall be developed by the relevant state, local, county or regional development or redevelopment authority. These standards must be in place before the respective state, local, county or regional development or redevelopment authority can accept ownership of property donated pursuant to a master land use plan. Acceptance of ownership of such property by a state, local, county or regional development or redevelopment authority may not occur unless it is determined that: (a) The property use is compatible with adjacent land uses; (b) the use satisfies the relevant development or redevelopment authority's anticipated need and market use; (c) the property has in place necessary infrastructure components needed to achieve the anticipated use; (d) the use is supported by all other appropriate public agencies; (e) the property is eligible for bond release in accordance with section twenty-three, article three, chapter twenty-two of this code; and (f) the use is feasible. Required infrastructure component standards require approval of the relevant county commission or commissions before such standards are accepted. County commission approval may be rendered only after a reasonable public comment period.

(4) The provisions of this subsection shall not take effect until legislative rules are promulgated pursuant to paragraph (C), subdivision (1), subsection (c), section twenty-three, article three, chapter twenty-two of this code governing bond releases which assure sound future maintenance by the local or regional economic development, redevelopment or planning agencies.
§5B-2A-12. Rulemaking.

1 (a) The office shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to establish, implement and enforce the provisions of this article, which rules shall include, but not be limited to:

2 (1) The development of standards for establishing the value of property by the office; and

3 (2) Criteria for the development of a master plan by local, county, regional or redevelopment authorities which coordinates the permitting and reclamation requirements of the division of environmental protection with these authorities.

(b) The office is authorized to promulgate emergency rules, prior to the first day of July, two thousand two, to incorporate the revisions to this article enacted during the two thousand two regular legislative session.
Enr. S. B. No. 698]

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 21st Day of March, 2002.

Governor