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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 428

(SENATORS SNYDER AND UNGER, *original sponsors*)

[Passed April 14, 2001; in effect ninety 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;

22 (6) Keeping in place a formal building permit and review
23 system which provides a process to regulate the authoriza-
24 tion of applications relating to construction or structural
25 modification. The county shall adopt, pursuant to section
26 three-n, article one of this chapter, the state building code
27 into any such building permit and review system; and

28 (7) Providing an improvement program which shall
29 include:

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

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

35 (C) Lists of proposed capital improvements from all
36 areas, containing descriptions of any such proposed capital
37 improvements, cost estimates, projected time frames for
38 constructing such improvements and proposed or antici-
39 pated funding sources.

40 (b) Capital improvement programs may include provi-
41 sions to provide for the expenditure of impact fees for any
42 legitimate county purpose. This may include the expendi-
43 ture of fees for partial funding of any particular capital
44 improvement where other funding exists from any source
45 other than the county or exists in combination with other
46 funds available to the county: *Provided*, That for such
47 expenditures to be considered legitimate, no county or
48 other local authority may deny or withhold any reasonable
49 benefit that may be derived therefrom from any develop-
50 ment project for which such impact fee or fees have been
51 paid.

52 (c) Capital improvement programs for public elementary
53 and secondary school facilities may include provisions to
54 spend impact fees based on a computation related to the
55 following: (1) The existing local tax base; and (2) the
56 adjusted value of accumulated infrastructure investment,

57 based on net depreciation, and any remaining debt owed
58 thereon. Any such computation must establish the value
59 of any equity shares in the net worth of an impacted school
60 system facility, regardless of the existence of any need to
61 expand such facility. Impact fee revenues may only be
62 used for capital replacement or expansion.

63 (d) Additional development areas may be added to any
64 plan or capital improvements program provided for
65 hereunder if a county government so desires. The stan-
66 dards governing the construction or structural modifica-
67 tion for any such additional area shall not deviate from
68 those adopted and maintained at the time such addition is
69 made.

70 (e) The county may modify annually any capital im-
71 provements plan in addition to any impact fee rates based
72 thereon, pursuant to the following:

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

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

77 (3) The changing needs of the general population;

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

79 (5) Any other relevant and significant factor applicable
80 to a legitimate goal or goals of any such capital improve-
81 ment plan.

CHAPTER 29.

MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

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

1 (a) The state fire commission shall propose rules for
2 legislative approval in accordance with the provisions of

3 article three, chapter twenty-nine-a of this code to safe-
4 guard life and property and to ensure the quality of
5 construction of all structures erected or renovated
6 throughout this state through the adoption of a state
7 building code. The rules shall be in accordance with
8 standard safe practices so embodied in widely recognized
9 standards of good practice for building construction and
10 all aspects related thereto and have force and effect in
11 those counties and municipalities adopting the state
12 building code: *Provided*, That each county or municipality
13 shall have the election to adopt the code to the extent that
14 it is only prospective and not retroactive in its application.

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

22 (c) For the purpose of this section, the term "building
23 code" is intended to include all aspects of safe building
24 construction and mechanical operations and all safety
25 aspects related thereto. Whenever any other state law,
26 county or municipal ordinance or regulation of any agency
27 thereof is more stringent or imposes a higher standard
28 than is required by the state building code, the provisions
29 of the state law, county or municipal ordinance or regula-
30 tion of any agency thereof governs if they are not inconsis-
31 tent with the laws of West Virginia and are not contrary to
32 recognized standards and good engineering practices. In
33 any question, the decision of the state fire commission
34 determines the relative priority of any such state law,
35 county or municipal ordinance or regulation of any agency
36 thereof and determines compliance with state building
37 code by officials of the state, counties, municipalities and
38 political subdivisions of the state.

39 (d) Enforcement of the provisions of the state building
40 code is the responsibility of the respective local jurisdic-
41 tion. Also, any county or municipality may enter into an
42 agreement with any other county or municipality to
43 provide inspection and enforcement services: *Provided,*
44 That any county or municipality may adopt the state
45 building code with or without adopting the BOCA national
46 property maintenance code.

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

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

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

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

Larry P. ...
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within ^{is} approved this the 2nd
Day of May, 2001.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/30/01

Time

9:35 am