

SB698

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
*REGULAR SESSION, 2002*



**ENROLLED**

SENATE BILL NO. 698

(By Senator TOUBLIN, MR. PRESIDENT, ET AL)



PASSED MARCH 7, 2002

In Effect NINETY DAYS FROM Passage

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## Senate Bill No. 698

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

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[Passed March 7, 2002; in effect ninety days from passage.]

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article two-a, chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections five, eight, nine and twelve of said article be amended and reenacted, all to read as follows: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

§5B-2A-5. Powers and duties.

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

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

6 (2) To establish a procedure for determining the assets  
7 that could be developed in and maintained by the commu-  
8 nity to foster its long-term viability as provided in section  
9 eight of this article and to administer the procedure so  
10 established;

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

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

18 (5) To determine the need for meetings to be held among  
19 the various interested parties in the communities impacted  
20 by surface mining operations and, when appropriate, to  
21 facilitate the meetings;

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

25 (7) In conjunction with the division, to maintain and  
26 operate a system to receive and address questions, con-  
27 cerns and complaints relating to surface mining; and

28 (8) On its own initiative or at the request of a community  
29 in close proximity to a mining operation, or a mining  
30 operation, offer assistance to facilitate the development of  
31 economic or community assets. Such assistance may

32 include the preparation of a master land use plan pursuant  
33 to the provisions of section nine of this article.

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

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

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

7 (1) Water and wastewater services;

8 (2) Developable land for housing, commercial develop-  
9 ment or other community purposes;

10 (3) Recreation facilities and opportunities; and

11 (4) Education facilities and opportunities.

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

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

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

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

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

25 (1) An evaluation of the future of the community once  
26 mining operations are completed;

27 (2) The prospects for the long-term viability of any asset  
28 developed under this section;

29 (3) The desirability of foregoing some or all of the asset  
30 development required by this section in lieu of the require-  
31 ments of section nine of this article; and

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

**§5B-2A-9. Securing developable land and infrastructure.**

1 (a) The office shall determine the land and infrastruc-  
2 ture needs in the general area of the surface mining  
3 operations.

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

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

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

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

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

18 (d) In making a determination of the land and infrastruc-  
19 ture needs in the general area of the mining operations, the  
20 office shall consider at least the following:

21 (1) The availability of developable land in the general  
22 area;

- 23       (2) The needs of the general area for developable land;
- 24       (3) The availability of infrastructure, including, but not  
25 limited to, access roads, water service, wastewater service  
26 and other utilities;
- 27       (4) The amount of land to be mined and the amount of  
28 valley to be filled;
- 29       (5) The amount, nature and cost to develop and maintain  
30 the community assets identified in section eight of this  
31 article; and
- 32       (6) The availability of federal, state and local grants and  
33 low-interest loans to finance all or a portion of the acqui-  
34 sition and construction of the identified land and infra-  
35 structure needs of the general area.
- 36       (e) In making a determination of the land and infrastruc-  
37 ture needs in the general area of the surface mining  
38 operations, the office shall give significant weight to  
39 developable land on or near existing or planned multilane  
40 highways.
- 41       (f) The office may secure developable land and infra-  
42 structure for a development office or county through the  
43 preparation of a master land use plan for inclusion into a  
44 reclamation plan prepared pursuant to the provisions of  
45 section ten, article three, chapter twenty-two of this code.  
46 No provision of this section may be construed to modify  
47 requirements of article three of said chapter. Participation  
48 in a master land use plan is voluntary.
- 49       (1) State, local, county or regional development or  
50 redevelopment authorities may determine land and  
51 infrastructure needs within their jurisdictions through the  
52 development of a master land use plan which incorporates  
53 post-mining land use needs that include industrial uses,  
54 commercial uses, agricultural uses, public facility uses or  
55 recreational facility uses.

56 (2) A master land use plan must be reviewed by the office  
57 of coalfield community development and approved by the  
58 division of environmental protection pursuant to section  
59 ten, article three, chapter twenty-two of this code before  
60 the master land use plan can be implemented.

61 (3) The required infrastructure component standards  
62 needed to accomplish the designated post-mining land  
63 uses identified in subdivision one of this subsection shall  
64 be developed by the relevant state, local, county or re-  
65 gional development or redevelopment authority. These  
66 standards must be in place before the respective state,  
67 local, county or regional development or redevelopment  
68 authority can accept ownership of property donated  
69 pursuant to a master land use plan. Acceptance of owner-  
70 ship of such property by a state, local, county or regional  
71 development or redevelopment authority may not occur  
72 unless it is determined that: (a) The property use is com-  
73 patible with adjacent land uses; (b) the use satisfies the  
74 relevant development or redevelopment authority's  
75 anticipated need and market use; (c) the property has in  
76 place necessary infrastructure components needed to  
77 achieve the anticipated use; (d) the use is supported by all  
78 other appropriate public agencies; (e) the property is  
79 eligible for bond release in accordance with section  
80 twenty-three, article three, chapter twenty-two of this  
81 code; and (f) the use is feasible. Required infrastructure  
82 component standards require approval of the relevant  
83 county commission or commissions before such standards  
84 are accepted. County commission approval may be  
85 rendered only after a reasonable public comment period.

86 (4) The provisions of this subsection shall not take effect  
87 until legislative rules are promulgated pursuant to para-  
88 graph (C), subdivision (1), subsection (c), section  
89 twenty-three, article three, chapter twenty-two of this  
90 code governing bond releases which assure sound future  
91 maintenance by the local or regional economic develop-  
92 ment, redevelopment or planning agencies.

**§5B-2A-12. Rulemaking.**

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

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

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

13 (b) The office is authorized to promulgate emergency  
14 rules, prior to the first day of July, two thousand two, to  
15 incorporate the revisions to this article enacted during the  
16 two thousand two regular legislative session.



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

*[Signature]*  
.....  
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 21<sup>st</sup>  
Day of March ....., 2002.

*[Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/15/02

Time 10:50am