

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3489

FISCAL
NOTE

By Delegates Foster, Crouse, and Cannon

[Introduced February 14, 2023; Referred to the
Committee on Political Subdivisions then Government
Organization]

1 A BILL to amend and reenact §7-1-3 and §7-1-3d of the Code of West Virginia, 1931, to amend
2 and reenact §7-17-10 as amended; both relating to granting administrative control of fire
3 departments within a county to a county fire board or, in the absence of a fire board, to the
4 county commission of that county when they are not already under administrative control
5 of a municipal corporation.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS

ARTICLE 1. COUNTY COMMISSIONS GENERALLY

§7-1-3. Jurisdiction, powers, and duties.

1 The county commissions, through their clerks, shall have the custody of all deeds and
2 other papers presented for record in their counties and the same shall be preserved therein, or
3 otherwise disposed of as now is, or may be prescribed by law. They shall have jurisdiction in all
4 matters of probate, the appointment and qualification of personal representatives, guardians,
5 committees, curators, and the settlement of their accounts and in all matters relating to
6 apprentices. They shall also, under the rules as now are or may be prescribed by law, have the
7 superintendence and administration of the internal police and fiscal affairs of their counties,
8 including the establishment and regulation of roads, ways, streets, avenues, drives and the like,
9 and the naming or renaming thereof, in cooperation with local postal authorities, the Division of
10 Highways and the directors of county emergency communications centers, to assure uniform,
11 nonduplicative conversion of all rural routes to city-type addressing on a permanent basis,
12 bridges, public landings, ferries and mills, with authority to lay and disburse the county levies. They
13 shall, in all cases of contest, judge of the election, qualification and returns of their own members,
14 and of all county and district officers, subject to appeal as prescribed by law. The tribunals as have
15 been heretofore established by the Legislature under and by virtue of section thirty-four, article VIII
16 of the constitution of one thousand eight hundred seventy-two, for police and fiscal purposes,

17 shall, until otherwise provided by law, remain and continue as at present constituted in the
18 counties in which they have been respectively established, and shall be and act as to police and
19 fiscal matters in lieu of the county commission herein mentioned, until otherwise provided by law.
20 And until otherwise provided by law, the clerk as is mentioned in section twenty-six of said article,
21 as amended, shall exercise any powers and discharge any duties heretofore conferred on, or
22 required of, any court or tribunal established for judicial purposes under said section, or the clerk of
23 the court or tribunal, respectively, respecting the recording and preservation of deeds and other
24 papers presented for record, matters of probate, the appointment and qualification of personal
25 representatives, guardians, committees, curators and the settlement of their accounts and in all
26 matters relating to apprentices. The county commission may not limit the right of any person to
27 purchase, possess, transfer, own, carry, transport, sell or store any revolver, pistol, rifle or shotgun
28 or any ammunition or ammunition components to be used therewith nor to so regulate the keeping
29 of gunpowder so as to, directly or indirectly, prohibit the ownership of the ammunition: *Provided,*
30 That no provision in this section may be construed to limit the authority of a county to restrict the
31 commercial use of real estate in designated areas through planning or zoning ordinances. Where
32 there is no county fire board within a county, the county commission will also be responsible for the
33 administration of any fire departments within county borders that are not already controlled by a
34 municipal corporation.

§7-1-3d. Levy for, establishment, and operation of fire prevention units; financial aid.

- 1 (a) The county commission in any county may:
- 2 (1) Levy for and erect, maintain, and operate fire stations; and
- 3 (2) Form county fire prevention units, and supply equipment therefor in the county:
- 4 *Provided,* That if a county commission establishes a separate county fire prevention unit in any city
5 in West Virginia that is now operating under the provisions of the state civil service act for paid fire
6 departments, then the new unit shall be operated in accordance with the provisions of the civil
7 service act. Any such unit shall be formed and recognized under the regulations of the State Fire

8 Commission for local fire departments.

9 (3) The county commission will be responsible for all fire departments within a county if that
10 county does not have a fire board and the fire departments are not already under the control of a
11 municipal corporation.

12 (b) Any county commission may render financial aid to any one or more public fire
13 protection facilities in operation in the county for the general benefit of the public in the prevention
14 of fires.

15 (c) Any county commission may also authorize volunteer fire companies or paid fire
16 departments to charge reasonable reimbursement fees for personnel and equipment used in
17 performing firefighting services, victim rescue, or cleanup of debris or hazardous materials by
18 department personnel.

19 (1) The rate for any such fees to be charged to property owners or other persons
20 responsible or liable for payment for such services must be approved by the county commission
21 and must be reasonable: *Provided*, That no fee for any single incident or accident shall exceed
22 \$1,500, except that the fee for an incident or accident involving hazardous materials or extended
23 search and rescue and water rescue incidents may exceed this amount based on the necessary
24 and reasonable costs incurred.

25 (2) The county commission shall require that any fees charged pursuant to the authority
26 conferred by this section must be in writing and be itemized by specific services rendered and the
27 rate for each service.

28 (3) Unless exempt by law, any person, partnership, corporation, or governmental agency
29 shall be fully responsible for all charges levied by this section within 75 days of the date of the
30 response resulting in such charge. Payment to the fire department or company rendering the
31 services shall be in full, unless a written agreement has been reached between the fire department
32 or company and the responsible party to establish a payment schedule to satisfy all charges.

33 (4) If payment for services rendered has not been received within 90 days from the date of

34 response, and if a payment schedule has not been established, a fire department or company may
 35 proceed in magistrate court or in other appropriate court action to recover from the responsible
 36 party all fees associated with the response, including attorney fees and court costs.

ARTICLE 17. COUNTY FIRE BOARDS.

§7-17-10. Powers generally.

1 (a) In counties with Fire Boards, said Fire Boards will control the fire departments within
 2 county limits, unless they are already controlled by a municipal corporation. To accomplish this,
 3 ~~The~~ the county fire board may:

4 (1) Make and adopt all necessary bylaws, rules and regulations for its organization and
 5 operations not inconsistent with law;

6 (2) Elect its own officers, appoint committees, and employ and fix compensation for
 7 personnel necessary for its operation;

8 (3) Enter into contracts with any person, agency, governmental department, firm or
 9 corporation, including both public and private corporations, and renew, amend, or supplement
 10 such contracts;

11 (4) Generally, ~~do any and~~ all things necessary or convenient for the purpose of improving
 12 fire service protection within the area to be served;

13 (5) Borrow money, apply for, receive, and use grants-in-aid, donations and contributions
 14 from any source or sources and accept and use bequests, devises, gifts, and donations from any
 15 person, firm or corporation;

16 (6) Raise funds by the issuance and sale of revenue bonds in the manner provided by law;

17 (7) Formulate and present a petition for funds to the county commission: *Provided*, That
 18 not more than one percent of such funds be used for purposes other than the prioritized needs of
 19 the member departments;

20 (8) Purchase or otherwise acquire, own, hold, sell, and dispose of real and personal
 21 property; and

22 (9) Expend its funds in the execution of the powers and authority herein given, which
23 expenditures, by the means authorized herein, are hereby determined, and declared as a matter
24 of legislative finding to be for a public purpose and use, in the public interest and for the general
25 welfare of the people of West Virginia.

26 (b) Where a county fire board does not exist and a municipal corporation does not already
27 control the fire department, the administration of fire departments within the county will fall under
28 the discretion of the county commission in accordance with §7-1-3d(3) of this code. The powers
29 and resources as described herein will also be available to the county commission in the
30 administration of the county's fire departments.

NOTE: The purpose of this bill is to grant administrative control of fire departments within a county to a county fire board or, in the absence of a fire board, to the county commission in that county when they are not already under administrative control of a municipal corporation.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.