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SB 673

FILED

2006 MAR 23 P 4: 28

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE  
Regular Session, 2006



ENROLLED

SENATE BILL NO. 673

(By Senator Oliverio, et al )



PASSED March 8, 2006

In Effect 90 days from Passage

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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## Senate Bill No. 673

(BY SENATORS OLIVERIO, PREZIOSO,  
MINEAR, HUNTER AND SPROUSE)

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[Passed March 8, 2006; in effect ninety days from passage.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto fourteen new sections, designated §7-20-11, §7-20-12, §7-20-13, §7-20-14, §7-20-15, §7-20-16, §7-20-17, §7-20-18, §7-20-19, §7-20-20, §7-20-21, §7-20-22, §7-20-23 and §7-20-24, all relating generally to the Local Powers Act; giving counties plenary power and authority to impose, administer, collect and enforce payment of voter-approved service fees to pay for or finance cost of special infrastructure projects within their counties; defining certain terms; giving county commissions authority to issue revenue bonds to finance special infrastructure projects; and including authority to issue refunding bonds and to take other actions to finance and complete such projects as the county commission deems prudent or necessary.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto fourteen new sections, designated §7-20-11, §7-20-12, §7-20-13, §7-20-14, §7-20-15, §7-20-16, §7-20-17, §7-20-18, §7-20-19, §7-20-20, §7-20-21, §7-20-22, §7-20-23 and §7-20-24, all to read as follows:

**ARTICLE 20. FEES AND EXPENDITURES FOR COUNTY DEVELOPMENT.**

**§7-20-11. Additional powers.**

1 (a) In addition to any other powers which a county may  
2 now have and notwithstanding the provisions of section  
3 six of this article, each county, by and through its county  
4 commission, shall have the following powers:

5 (1) To acquire, whether by purchase, construction, gift,  
6 lease or otherwise, one or more infrastructure projects, or  
7 additions thereto, which shall be located within the  
8 county;

9 (2) To lease, lease with an option to purchase, sell, by  
10 installment sale or otherwise, or otherwise dispose of, to  
11 others any infrastructure projects for such rentals or  
12 amounts and upon such terms and conditions as the county  
13 commission may deem advisable;

14 (3) To establish a special infrastructure fund as a sepa-  
15 rate fund into which all special service fees and other  
16 revenues designated by the county commission shall be  
17 deposited, and from which all project costs shall be paid,  
18 which may be assigned to and held by a trustee for the  
19 benefit of bondholders if special infrastructure revenue  
20 bonds are issued by the county commission; and

21 (4) To impose a countywide service fee to pay the costs  
22 of one or more infrastructure projects, including, but not  
23 limited to, the payment of debt service on any revenue  
24 bonds issued under section thirteen of this article.

25 (b) For purposes of this section and its implementation  
26 and use:

27 (1) "Capital improvements" means the following public  
28 facilities or assets that are owned, supported or estab-  
29 lished by a county commission:

30 (A) Water treatment and distribution facilities;

31 (B) Wastewater treatment and disposal facilities;

32 (C) Sanitary sewers;

33 (D) Storm water, drainage and flood control facilities;  
34 and

35 (E) Public road systems, including, but not limited to,  
36 rights-of-way, lighting, sidewalks and gutters.

37 "Capital improvements" as defined herein is limited to  
38 those improvements that are treated as capitalized ex-  
39 penses according to generally accepted governmental  
40 accounting principles and that have an expected useful life  
41 of no less than three years. "Capital improvement" does  
42 not include costs associated with the operation, repair,  
43 maintenance or full replacement of capital improvements.  
44 "Capital improvement" does include reasonable costs for  
45 planning, design, engineering, land acquisition and other  
46 costs directly associated with the capital improvements  
47 described herein, whether incurred prior to or subsequent  
48 to imposition of a countywide service fee. This includes  
49 costs incurred by a developer prior to imposition of the  
50 countywide service fee that would have been incurred by  
51 the county commission as part of the cost of capital  
52 improvement, provided such costs were not incurred more  
53 than thirty-six months before the county commission  
54 adopts the order imposing the countywide service fee, or  
55 such shorter period, as determined to be reasonable in the  
56 sole discretion of the county commission.

57 (2) "Plan" means the plan for special infrastructure  
58 projects that includes one or more capital improvements,  
59 as defined in this section that is adopted by a county

60 commission in conformity with the requirements of this  
61 article.

62 (c) Before commencing certain infrastructure projects,  
63 the county commission shall obtain written confirmations  
64 from an affected public utility or the West Virginia  
65 Department of Transportation or other agency, as pro-  
66 vided in this section:

67 (1) If the project includes water, wastewater or sewer  
68 improvements, the county commission shall obtain from  
69 the utility or utilities that provide service in the area or  
70 areas where the improvements will be made that the utility  
71 or utilities:

72 (A) Currently has adequate capacity to provide service  
73 without significant upgrades or modifications to its  
74 treatment, storage or source of supply facilities;

75 (B) Will review and approve all plans and specifications  
76 for the improvements to determine that the improvements  
77 conform to the utility's reasonable requirements and, if the  
78 improvement consists of water transmission or distribu-  
79 tion facilities, that the improvements provide for adequate  
80 fire protection for the district; and

81 (C) If built in conformance with said plans and specifica-  
82 tions, will accept the improvements following their  
83 completion, unless the project will continue to be owned  
84 by the county commission.

85 (2) If the special infrastructure project includes improve-  
86 ments other than as set forth in subdivision (1), subsection  
87 (b) of this section that will be transferred to the West  
88 Virginia Department of Transportation or other govern-  
89 mental agency, written evidence that the department or  
90 agency will accept the transfer if the infrastructure project  
91 is built in conformance with requirements of the Depart-  
92 ment of Transportation, or other agency, pursuant to plans  
93 and specifications approved by the department or other  
94 agency.

**§7-20-12. Countywide service fees.**

1 (a) Notwithstanding any provision of this code to the  
2 contrary, every county shall have plenary power and  
3 authority to impose a countywide service fee upon each  
4 employee and self-employed individual for each week or  
5 part of a calendar week the individual works within the  
6 county, subject to the following:

7 (1) No individual shall pay the fee more than once for the  
8 same week of employment within the county.

9 (2) The fee imposed pursuant to this section is in addi-  
10 tion to all other fees imposed by the jurisdiction within  
11 which the individual is employed.

12 (3) The fee imposed pursuant to this section may not take  
13 effect until the first day of a calendar month, as set forth  
14 in the order of the county commission establishing the fee,  
15 that begins at least thirty days after a majority of the  
16 registered voters of the county voting on the question  
17 approve imposition of the service fee, in a primary, general  
18 or a special election held in the county.

19 (4) The order of the county commission shall provide for  
20 the administration, collection and enforcement of the  
21 service fee. Employers who have employees that work in  
22 the county imposing the service fee shall withhold the fee  
23 from compensation paid to the employee and pay it over to  
24 the county as provided in the order of the county commis-  
25 sion. Self-employed individuals shall pay the service fee  
26 to the county commission in accordance with the order  
27 establishing the fee.

28 (5) The terms "employed", "employee", "employer" and  
29 "self-employed" have the following meaning:

30 (A) "Employed" shall include an employee working for  
31 an employer so as to be subject to any federal or state  
32 employment or wage withholding requirement and a self-  
33 employed individual working as a sole proprietor or

34 member of a firm so as to be subject to self-employment  
35 tax. An employee shall be considered employed in a  
36 calendar week so long as the employee remains on the  
37 current payroll of an employer deriving compensation for  
38 such week and the employee has not been permanently  
39 assigned to an office or place of business outside the  
40 county. A self-employed individual shall be considered  
41 employed in a calendar week so long as such individual  
42 has not permanently discontinued employment within the  
43 county.

44 (B) "Employee" means any individual who is employed  
45 at or physically reports to one or more locations within the  
46 county and is on the payroll of an employer, on a full-time  
47 or part-time basis or temporary basis, in exchange for  
48 salary, wages or other compensation.

49 (C) "Employer" means any person, partnership, limited  
50 partnership, limited liability company, association (unin-  
51 corporated or otherwise), corporation, institution, trust,  
52 governmental body or unit or agency, or any other entity  
53 (whether its principal activity is for-profit or not-for-  
54 profit) situated, doing business, or conducting its principal  
55 activity in the county and who employs an employee, as  
56 defined in this section.

57 (D) "Self-employed individual" means an individual  
58 who regularly maintains an office or place of business for  
59 conducting any livelihood, job, trade, profession, occupa-  
60 tion, business or enterprise of any kind within the county's  
61 geographical boundaries over the course of four or more  
62 calendar weeks, which need not be consecutive, in any  
63 given calendar year.

64 (6) All revenues generated by the county service fee  
65 imposed pursuant to this section shall be dedicated to and  
66 shall be exclusively utilized for the purpose or purposes set  
67 forth in the referendum approved by the voters, including,  
68 but not limited to, the payment of debt service on any  
69 bonds issued pursuant to section thirteen of this article

70 and any costs related to the administration, collection and  
71 enforcement of the service fee.

72 (b) Any order entered by a county commission imposing  
73 a countywide service fee pursuant to this part, or increas-  
74 ing or decreasing a countywide service fee previously  
75 adopted pursuant to this part, shall be published as a Class  
76 II legal advertisement in compliance with the provisions of  
77 article three, chapter fifty-nine of this code and the  
78 publication area for the publication shall be the county.  
79 The order shall not become effective until it is ratified by  
80 a majority of the lawful votes cast thereon by the qualified  
81 voters of the county at a primary, general or special  
82 election, as the county commission shall direct. Voting  
83 thereon shall not take place until after notice of the  
84 referendum shall have been given by publication as above  
85 provided for the publication of the order after it is adopted  
86 by the county commission. The notice of referendum shall  
87 at a minimum include: (1) The date of the referendum; (2)  
88 the amount of countywide service fee; (3) a general de-  
89 scription of the capital improvement or improvements  
90 included in the special infrastructure project to be fi-  
91 nanced with the service fee; (4) whether revenue bonds will  
92 be issued; and (5) if bonds are to be issued, the estimated  
93 term of the revenue bonds. The county commission may  
94 include additional information in the notice of referen-  
95 dum.

**§7-20-13. Bonds issued to finance infrastructure project.**

1 (a) The county commission, in its discretion, may use the  
2 moneys in such special infrastructure fund to finance the  
3 costs of the special infrastructure projects on a cash basis.  
4 The county commission periodically may issue special  
5 infrastructure revenue bonds of the county as provided in  
6 this section to finance all or part of such special infra-  
7 structure projects and pledge all or any part of the moneys  
8 in such special infrastructure fund for the payment of the  
9 principal of and interest on such special infrastructure  
10 revenue bonds and for reserves therefor. Any pledge of the



11 special infrastructure fund for special infrastructure  
12 revenue bonds shall be a prior and superior charge on the  
13 special infrastructure fund over the use of any of the  
14 moneys in the fund to pay for the cost of any of such  
15 purposes on a cash basis.

16 (b) Such special infrastructure revenue bonds periodi-  
17 cally may be authorized and issued by the county commis-  
18 sion to finance, in whole or in part, the special infrastruc-  
19 ture projects in an aggregate principal amount not exceed-  
20 ing the amount which the county commission determines  
21 can be paid as to both principal and interest and reason-  
22 able margins for a reserve therefor from the moneys in  
23 such special infrastructure fund.

24 (c) The issuance of special infrastructure revenue bonds  
25 shall be authorized by an order of the county commission  
26 and such special infrastructure revenue bonds shall bear  
27 such date or dates; mature at such time or times not  
28 exceeding forty years from their respective dates; be in  
29 such denomination; be in registered form, with such  
30 exchangeability and interchangeability privileges; be  
31 payable in such medium of payment and at such place or  
32 places, within or without the state; be subject to such  
33 terms of prior redemption at such prices; and shall have  
34 such other terms and provisions as determined by the  
35 county commission. Such special infrastructure revenue  
36 bonds shall be signed by the president of the county  
37 commission under the seal of the county commission,  
38 attested by the clerk of the county commission. Special  
39 infrastructure revenue bonds shall be sold in such manner  
40 as the county commission determines is for the best  
41 interests of the county.

42 (d) The county commission may enter into trust agree-  
43 ments with banks or trust companies, within or without  
44 the state, and in such trust agreements or the resolutions  
45 authorizing the issuance of such bonds may enter into  
46 valid and legally binding covenants with the holders of  
47 such special infrastructure revenue bonds as to the cus-

48 today, safeguarding and disposition of the proceeds of such  
49 special infrastructure revenue bonds, the moneys in such  
50 special infrastructure fund, sinking funds, reserve funds or  
51 any other moneys or funds; as to the rank and priority, if  
52 any, of different issues of special infrastructure revenue  
53 bonds by the county commission under the provisions of  
54 this section; as to the maintenance or revision of the  
55 amounts of such fees; as to the extent to which swap  
56 agreements, as defined in section two-h, article two-g,  
57 chapter thirteen of this code, shall be used in connection  
58 with such special infrastructure revenue bonds, including  
59 such provisions as payment, term, security, default and  
60 remedy provisions as the county commission shall consider  
61 necessary or desirable, if any, under which such fees may  
62 be reduced; and as to any other matters or provisions  
63 which are considered necessary and advisable by the  
64 county commission in the best interests of the county and  
65 to enhance the marketability of such special infrastructure  
66 revenue bonds.

67 (e) After the issuance of any of the special infrastructure  
68 revenue bonds, the service fee pledged to the payment  
69 thereof may not be reduced as long as any of the special  
70 infrastructure revenue bonds are outstanding and unpaid  
71 except under such terms, provisions and conditions as  
72 shall be contained in the order, trust agreement or other  
73 proceedings under which the special infrastructure  
74 revenue bonds were issued.

75 (f) The special infrastructure revenue bonds shall be and  
76 constitute negotiable instruments under the Uniform  
77 Commercial Code of this state; shall, together with the  
78 interest thereon, be exempt from all taxation by the State  
79 of West Virginia, or by any county, school district, municipi-  
80 pality or political subdivision thereof; and the special  
81 infrastructure revenue bonds may not be considered to be  
82 obligations or debts of the state or of the county issuing  
83 the bonds and the credit or taxing power of the state or of  
84 the county issuing the bonds may not be pledged therefor,

85 but the special infrastructure revenue bonds shall be  
86 payable only from the revenue pledged therefor as pro-  
87 vided in this section.

88 (g) A holder of the special infrastructure revenue bonds  
89 shall have a lien against the special infrastructure fund for  
90 payment of the special infrastructure revenue bond and  
91 the interest thereon and may bring suit to enforce the lien.

92 (h) A county commission may issue and secure additional  
93 bonds payable out of the special infrastructure fund which  
94 bonds may rank on a parity with, or be subordinate or  
95 superior to, other bonds issued by the county commission  
96 and payable from the special infrastructure fund.

97 (i) For purposes of this article:

98 (1) "Special infrastructure revenue bonds" means bonds,  
99 debentures, notes, certificates of participation, certificates  
100 of beneficial interest, certificates of ownership or other  
101 evidences of indebtedness or ownership that are issued by  
102 a county commission, the proceeds of which are used  
103 directly or indirectly to finance or refinance special  
104 infrastructure projects within the county and financing  
105 costs and that are secured by or payable from the special  
106 service fees;

107 (2) "Special infrastructure project" means "capital  
108 improvements" as that term is defined in section eleven of  
109 this article; and

110 (3) "Special infrastructure fund" means that fund  
111 established and held by the sheriff of the county or a  
112 trustee for bondholders, as the case may be, into which the  
113 special fees imposed pursuant to section twelve of this  
114 article are deposited.

**§7-20-14. Use of proceeds from sale of bonds.**

1 (a) The proceeds from the sale of any bonds issued under  
2 authority of this article shall be applied only for the  
3 purpose for which the bonds were issued: *Provided*, That

4 any accrued interest and premium received in any such  
5 sale shall be applied to the payment of the principal of or  
6 the interest on the bonds sold. If for any reason any  
7 portion of the proceeds shall not be needed for the purpose  
8 for which the bonds were issued, then the unneeded  
9 portion of the proceeds shall be applied to the purchase of  
10 bonds for cancellation or payment of the principal of or  
11 the interest on the bonds, or held in reserve for the pay-  
12 ment thereof.

13 (b) The costs of acquiring any special infrastructure  
14 project shall be deemed to include the following:

15 (1) Capital costs, including, but not limited to, the actual  
16 costs of the construction of public works or improvements,  
17 capital improvements and facilities, new buildings,  
18 structures and fixtures, the demolition, alteration, remodel-  
19 ing, repair or reconstruction of existing buildings,  
20 structures and fixtures, environmental remediation, the  
21 acquisition of equipment and site clearing, grading and  
22 preparation;

23 (2) Financing costs, including, but not limited to, an  
24 interest paid to holders of evidences of indebtedness issued  
25 to pay for project costs, all costs of issuance and any  
26 redemption premiums, credit enhancement or other related  
27 costs;

28 (3) Real property acquisition costs;

29 (4) Professional service costs, including, but not limited  
30 to, those costs incurred for architectural planning, engi-  
31 neering and legal advice and services;

32 (5) Imputed administrative costs, including, but not  
33 limited to, reasonable charges for time spent by county  
34 employees in connection with the implementation of a  
35 project;

36 (6) Relocation costs, including, but not limited to, those  
37 relocation payments made following condemnation and  
38 job training and retraining;

39 (7) Organizational costs, including, but not limited to,  
40 the costs of conducting environmental impact and other  
41 studies, and the costs of informing the public with respect  
42 to the implementation of project plans;

43 (8) Payments made, in the discretion of the county  
44 commission, which are found to be necessary or convenient  
45 to the implementation of project plans; and

46 (9) That portion of costs related to the construction of  
47 environmental protection devices, storm or sanitary sewer  
48 lines, water lines, amenities or streets or the rebuilding or  
49 expansion of streets, or the construction, alteration,  
50 rebuilding or expansion of which is necessitated by the  
51 project plan, whether or not the construction, alteration,  
52 rebuilding or expansion is within the area or on land  
53 contiguous thereto.

**§7-20-15. No contribution by county.**

1 (a) No county commission shall have the power to pay  
2 out of its general funds, or otherwise contribute, any of the  
3 costs of acquiring, constructing or financing a special  
4 infrastructure project to be acquired, constructed or  
5 financed, in whole or in part, out of the proceeds from the  
6 sale of revenue bonds issued under the authority of this  
7 article: *Provided*, That this provision shall not be con-  
8 strued to prevent a county from accepting donations of  
9 property to be used as a part of an infrastructure project  
10 or to be used for defraying any part of the cost of any  
11 infrastructure project or from imposing a service fee as  
12 provided in section twelve of this article, which is dedi-  
13 cated, in whole or in part, to the infrastructure project or  
14 to payment of debt service on revenue bonds issued  
15 pursuant to this article.

16 (b) The bonds issued pursuant to this article shall be  
17 payable solely from: (1) The revenue derived from the  
18 infrastructure project or the financing thereof; (2) the  
19 service fee imposed pursuant to section twelve of this  
20 article; or (3) any combination of these sources.

21 (c) No county commission shall have the authority under  
22 this article to levy any taxes for the purpose of paying any  
23 part of the cost of acquiring, constructing or financing an  
24 infrastructure project. However, all necessary preliminary  
25 expenses actually incurred by a county commission in the  
26 making of surveys, taking options, preliminary planning  
27 and all other expenses necessary to be paid prior to the  
28 issuance, sale and delivery of the revenue bonds, may be  
29 paid by the county commission out of any surplus con-  
30 tained in any item of budgetary appropriation or any  
31 revenues, including, but not limited to, service fees,  
32 collected in excess of anticipated revenues, which shall be  
33 reimbursed and repaid out of the proceeds of the sale of  
34 the revenue bonds.

**§7-20-16. Bonds made legal investments.**

1 Bonds issued under the provisions of this article shall be  
2 legal investments for banks, building and loan associa-  
3 tions, and insurance companies organized under the laws  
4 of this state and for a business development corporation  
5 organized pursuant to chapter thirty-one, article fourteen  
6 of this code.

**§7-20-17. Construction of article.**

1 Neither this article nor anything herein contained shall  
2 be construed as a restriction or limitation upon any powers  
3 which a county might otherwise have under any laws of  
4 this state, but shall be construed as alternative or addi-  
5 tional; and this article shall not be construed as requiring  
6 an election on issuance of the bonds by the voters of a  
7 county prior to the issuance of bonds hereunder by the  
8 county commission and same shall not be construed as  
9 requiring any proceeding under any law or laws, other  
10 than that which is required by this article.

**§7-20-18. No notice, consent or publication required.**

1 No notice to or consent or approval by any other govern-  
2 mental body or public officer shall be required as a

3 prerequisite to the issuance or sale of any bonds or the  
4 making of any agreement, a mortgage or deed of trust  
5 under the authority of this article. No publication or  
6 notice shall be necessary to the validity of any resolution  
7 or proceeding had under this article, except where publi-  
8 cation or notice is expressly required by this article.

**§7-20-19. Public officials exempt from personal liability.**

1 No member of a county commission or other county  
2 officer shall be personally liable on any contract or  
3 obligation executed pursuant to the authority contained in  
4 this article. Nor shall the issuance of bonds under this  
5 article be considered as misfeasance in office.

**§7-20-20. Cooperation by public bodies.**

1 For the purpose of aiding and cooperating in the plan-  
2 ning, undertaking or carrying out of a special infrastruc-  
3 ture project located, in whole or in part, within the area in  
4 which it is authorized to act, any public body may, upon  
5 such terms, with or without consideration, as it may  
6 determine:

7 (1) Dedicate, sell, convey or lease any of its interest in  
8 any property, or grant easements, licenses or any other  
9 rights or privileges therein to an authority;

10 (2) Cause parks, playgrounds, recreational, community,  
11 educational, water, sewer or drainage facilities, or any  
12 other works which it is otherwise empowered to under-  
13 take, to be furnished in connection with an infrastructure  
14 project;

15 (3) Furnish, dedicate, close, vacate, pave, install, grade,  
16 regrade, plan or replan streets, roads, sidewalks, ways or  
17 other places, which it is otherwise empowered to under-  
18 take;

19 (4) Plan or replan, zone or rezone any parcel of land  
20 within the jurisdiction of the public body or make excep-  
21 tions from building regulations and ordinances if such

22 functions are of the character which the public body is  
23 otherwise empowered to perform;

24 (5) Cause administrative and other services to be fur-  
25 nished for the special infrastructure project of the charac-  
26 ter which the public body is otherwise empowered to  
27 undertake or furnish for the same or other purposes;

28 (6) Incur the entire expense of any public improvements  
29 made by the public body in exercising the powers granted  
30 in this section;

31 (7) Do any and all things necessary or convenient to aid  
32 and cooperate in the planning or carrying out of a special  
33 infrastructure project that is, in whole or in part, located  
34 in its jurisdiction;

35 (8) Lend, grant or contribute funds to a county commis-  
36 sion for purposes of a special infrastructure project; and

37 (9) Employ any funds belonging to or within the control  
38 of the public body, including funds derived from the sale  
39 or furnishing of property, service, or facilities to a county  
40 commission for a special infrastructure project, in the  
41 purchase of the bonds or other obligations of a county  
42 commission issued under this article and, as the holder of  
43 such bonds or other obligations, exercise the rights  
44 connected therewith.

**§7-20-21. Relocation of public utility lines or facilities to ac-  
commodate special infrastructure project.**

1 (a) In the event a county commission determines that any  
2 public utility line or facility located upon, across or under  
3 any portion of a street, avenue, highway, road or other  
4 public place or way shall be temporarily or permanently  
5 readjusted, removed, relocated, changed in grade or  
6 otherwise altered (each and all hereinafter for convenience  
7 referred to as "relocation") in order to accommodate any  
8 infrastructure project undertaken pursuant to the provi-



9 sions of this article, the cost of the relocation shall be  
10 borne by the county commission.

11 (b) For purposes of this section, the term "cost of  
12 relocation" shall include the entire amount paid by such  
13 utility, exclusive of any right-of-way costs incurred by  
14 such utility, properly attributable to such relocation after  
15 deducting therefrom any increase in the value of the new  
16 line or facility and salvage derived from the old line or  
17 facility.

18 (c) The cost of relocating utility lines or facilities, as  
19 defined herein, in connection with any special infrastruc-  
20 ture project is hereby declared to be a cost of the project.

**§7-20-22. Special infrastructure projects financed by service fee  
considered to be public improvements subject to  
prevailing wage, local labor preference and com-  
petitive bid requirements.**

1 (a) Any special infrastructure project acquired, con-  
2 structed or financed, in whole or in part, by service fees  
3 imposed by a county commission under section twelve of  
4 this article shall be considered to be a "public improve-  
5 ment" within the meaning of the provisions of articles one-  
6 c and five-a, chapter twenty-one of this code.

7 (b) The county commission shall, except as provided in  
8 subsection (c) of this section, solicit or require solicitation  
9 of competitive bids and require the payment of prevailing  
10 wage rates as provided in article five-a, chapter twenty-  
11 one of this code and compliance with article one-c of said  
12 chapter for any special infrastructure project funded  
13 pursuant to section twelve of this article exceeding  
14 twenty-five thousand dollars in total cost.

15 (c) Following the solicitation of the bids, the construc-  
16 tion contract shall be awarded to the lowest qualified  
17 responsible bidder, who shall furnish a sufficient perfor-  
18 mance and payment bond: *Provided*, That the county

19 commission or other person soliciting the bids may reject  
20 all bids and solicit new bids on the project.

21 (d) No officer or employee of this state or of any public  
22 agency, public authority, public corporation or other  
23 public entity and no person acting or purporting to act on  
24 behalf of such officer or employee or public entity shall  
25 require that any performance bond, payment bond or bid  
26 bond required or permitted by this section be obtained  
27 from any particular surety company, agent, broker or  
28 producer.

29 (e) This section does not:

30 (1) Apply to work performed on construction projects not  
31 exceeding a total cost of fifty thousand dollars by regular  
32 full-time employees of the county commission: *Provided*,  
33 That no more than fifty thousand dollars shall be ex-  
34 pended on an individual project in a single location in a  
35 twelve-month period;

36 (2) Prevent students enrolled in vocational educational  
37 schools from being used in construction or repair projects  
38 when such use is a part of the students' training program;

39 (3) Apply to emergency repairs to building components  
40 and systems: *Provided*, That the term "emergency repairs"  
41 means repairs that, if not made immediately, will seriously  
42 impair the use of the building components and systems or  
43 cause danger to those persons using the building compo-  
44 nents and systems; or

45 (4) Apply to any situation where the county commission  
46 comes to an agreement with volunteers, or a volunteer  
47 group, by which the county commission will provide  
48 construction or repair materials, architectural, engineer-  
49 ing, technical or any other professional services and the  
50 volunteers will provide the necessary labor without charge  
51 to, or liability upon, the county commission: *Provided*,  
52 That the total cost of the construction or repair projects  
53 does not exceed fifty thousand dollars.

**§7-20-23. Excess funds; termination of service fee.**

1 (a) When revenue bonds have been issued as provided in  
2 this article and the amount of service fees imposed pursu-  
3 ant to section twelve of this article and collected by the  
4 sheriff, less costs of administration, collection and enforce-  
5 ment, exceeds the amount needed to pay project costs and  
6 annual debt service, including the finding of required debt  
7 service and maintenance reserves, the additional amount  
8 shall be set aside in a separate fund and used to retire  
9 some or all of the outstanding revenue bonds before their  
10 maturity date.

11 (b) Once the revenue bonds issued as provided in this  
12 article are no longer outstanding or the county commission  
13 determines that sufficient reserves have been or will be  
14 accumulated as of a specified date to pay all future debt  
15 service on the outstanding bonds, the service fee to pay-  
16 able services on a subsequent issue of revenue bonds  
17 imposed pursuant to section twelve of this article may not  
18 be imposed or collected for subsequent weeks after that  
19 date. Termination of the service fee as provided in this  
20 section shall not bar or otherwise prevent the county  
21 commission from collecting service fees that accrued  
22 before the termination date.

**§7-20-24. Severability.**

1 If any section, clause, provision or portion of this article  
2 shall be held to be invalid or unconstitutional by any court  
3 of competent jurisdiction, such holding shall not affect any  
4 other section, clause or provision of this article which is  
5 not in and of itself unconstitutional.

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 *approved* ..... this the *23rd*  
Day of *March* ....., 2006.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 17 2006

Time 11:10am