

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4542

BY DELEGATE CANTERBURY

[Introduced February 16, 2016; Referred
to the Committee on Political Subdivisions then
Finance.]

1 A BILL to amend and reenact §8-13-13 of the Code of West Virginia, 1931, as amended, relating
 2 to allowing persons with property within rural fire protection districts to opt out of fire
 3 protection coverage by a municipality for a specified property; financial responsibility for
 4 services actually rendered to the specified property.

Be it enacted by the Legislature of West Virginia:

1 That §8-13-13 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 13. TAXATION AND FINANCE.

§8-13-13. Special charges for municipal services.

1 (a) Notwithstanding any charter provisions to the contrary, a municipality which furnishes
 2 any essential or special municipal service, including, but not limited to, police and fire protection,
 3 parking facilities on the streets or otherwise, parks and recreational facilities, street cleaning,
 4 street lighting, street maintenance and improvement, sewerage and sewage disposal, and the
 5 collection and disposal of garbage, refuse, waste, ashes, trash and any other similar matter, has
 6 plenary power and authority to provide by ordinance for the installation, continuance, maintenance
 7 or improvement of the service, to make reasonable regulations of the service, and to impose by
 8 ordinance upon the users of the service reasonable rates, fees and charges to be collected in the
 9 manner specified in the ordinance.

10 (b) Any sewerage and sewage disposal service and any service incident to the collection
 11 and disposal of garbage, refuse, waste, ashes, trash and any other similar matter is subject to the
 12 provisions of chapter twenty-four of this code.

13 (c) A municipality shall not have a lien on any property as security for payments due under
 14 subsection (a) of this section except as provided in subsection (d) of this section.

15 (d) A municipality has authority to enact an ordinance, pursuant to this section, permitting
 16 it to file a lien on real property located within the municipal corporate limits for unpaid and
 17 delinquent fire, police or street fees. The ordinance must provide an administrative procedure for

18 the municipality's assessment and collection of the fees. The administrative procedure must
19 require that, before any lien is filed, the municipality will give notice to the property owner, by
20 certified mail, return receipt requested, that the municipality will file the lien unless the delinquency
21 is paid by a date stated in the notice, which must be no less than ninety days from the date the
22 notice is mailed. The administrative procedure must include the right to appeal to the circuit court
23 of the county in which the real property is located. The circuit court shall consider the appeal under
24 its general authority, including but not limited to subsection (f), section two, article two of chapter
25 fifty-one of this code.

26 (e) Notwithstanding the provisions of section four, article eleven of this chapter, any
27 ordinance enacted or substantially amended under the provisions of this section shall be
28 published as a Class II legal advertisement in compliance with the provisions of article three,
29 chapter fifty-nine of this code. The publication area for the publication is the municipality.

30 (f) In the event thirty percent of the qualified voters of the municipality, by petition duly
31 signed by them in their own handwriting and filed with the recorder of the municipality within forty-
32 five days after the expiration of the publication, protest against the ordinance as enacted or
33 amended, the ordinance shall not become effective until it is ratified by a majority of the legal
34 votes cast by the qualified voters of the municipality at a regular municipal election or special
35 municipal election, as the governing body directs. Voting shall not take place until after notice of
36 the submission is given by publication as provided in subsection (e) of this section.

37 (g) The powers and authority granted to municipalities and to the governing bodies of
38 municipalities in this section are in addition and supplemental to the powers and authority named
39 in any charters of the municipalities.

40 (h) Notwithstanding any other provisions of this section, if rates, fees and charges provided
41 in this section are imposed by the governing body of a municipality for the purpose of replacing,
42 and in amounts approximately sufficient to replace in its general fund amounts appropriated to be
43 paid from ad valorem taxes upon property within the municipality, pursuant to an election duly

44 called and held under the Constitution and laws of the state to authorize the issuance and sale of
45 the municipality's general obligation bonds for public improvement purposes, the call for the
46 election shall state that the governing body of the municipality proposes to impose rates, fees and
47 charges in specified amounts under this section for the use of one or more of the services
48 specified in subsection (a) of this section, which shall be related to the public improvement
49 proposed to be made with the proceeds of the bonds, no notice, publication of notice, or
50 referendum or election or other condition or prerequisite to the imposition of the rates, fees and
51 charges shall be required or necessary other than the legal requirements for issuance and sale
52 of the general obligation bonds.

53 (i) In the instance a municipality provides fire service outside its corporate limits in
54 accordance with the provisions of section three, article fifteen of this chapter, a person owning
55 property within a rural fire protection district which is protected by a municipal fire department may
56 choose to opt out of that protection for specified property by written notice to the municipality
57 which contains a legal description of the property. After the property owner has opted out of such
58 fire protection, he or she may not be charged any fees or payments used to fund such protection
59 for the specified property in that rural fire protection district. If a fire occurs on that opted out
60 property, if feasible, the municipality shall provide fire protection services to that property. In such
61 a case, the property owner is responsible for paying to the municipality the cost of providing the
62 fire protection service to the opted out property.

NOTE: The purpose of this bill is to allow persons with property within rural fire protection districts to opt out of fire protection coverage by a municipality for a specified property. There is financial responsibility for services actually rendered to such property.

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