

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Introduced**

### **House Bill 4615**

**FISCAL  
NOTE**

BY DELEGATE MOFFATT AND IHLE

[Introduced February 18, 2016; referred to the  
Committee Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §8-10-2c, relating to permitting municipalities to collect unpaid utility bills,  
 3 trash, refuse, demolition, landfill fees or other fees; establishing a procedure; setting forth  
 4 a fee structure; creating the Municipal Fines and Fees Collection Fund and granting rule-  
 5 making authority.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §8-10-2c, to read as follows:

**ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.**

**PART I. MAYOR.**

**§8-10-2c. Payment of unpaid utility and other city imposed fees; collection through the Tax  
 Commissioner.**

1 (a) Effective July 1, 2016, any person that fails to provide full restitution to the municipality  
 2 for any unpaid utility bills, trash, refuse, demolition, landfill fees or other fees incurred by the  
 3 municipality within municipal boundaries, the municipal utility office shall submit a certified letter  
 4 to the person detailing the unpaid bill(s) and instructing payment to be made to the municipality  
 5 within ninety days. If payment or a written appeal of erroneous charges is not received by the  
 6 municipality within ninety days, the municipal utility office will notify the Tax Commissioner that  
 7 the person has failed to pay the costs, fines, forfeitures or penalties assessed by the municipal  
 8 utility office. The notice provided by the municipal utility office to the Tax Commissioner shall  
 9 include the Social Security number of the person who has failed to pay the costs, fines, forfeitures  
 10 or penalties. The Tax Commissioner, or his or her designee, shall withhold from any personal  
 11 income tax refund due and owing to a licensee the costs, fines, forfeitures or penalties due to the  
 12 municipality, the Tax Commissioner’s administration fee, not to exceed \$25, for the withholding  
 13 and any and all fees that the municipal utility office would have collected. However, the Tax

14 Commissioner may alter this limitation for fiscal years any time after July 1, 2016, by legislative  
15 rule promulgated in accordance with article three, chapter twenty-nine-a of this code.

16 (b) The administrative fees deducted shall be deposited in the special revolving fund  
17 hereby created in the State Treasury, which shall be designated as the Municipal Fines and Fees  
18 Collection Fund, and the Tax Commissioner shall make such expenditures from the fund as he  
19 or she deems appropriate for the administration of this subsection. After deduction of the Tax  
20 Commissioner's administration fee, the Tax Commissioner shall remit to the municipality all  
21 remaining amounts withheld pursuant to this section and the municipal court shall distribute  
22 applicable costs, fines, forfeitures or penalties owed to the municipality.

23 (c) After the costs, fines, forfeitures or penalties are withheld, the Tax Commissioner shall  
24 refund any remaining balance to the licensee. If the refund is not sufficient to cover all the costs,  
25 fines, forfeitures or penalties being withheld pursuant to this section, the Tax Commissioner's  
26 administration fee shall be retained by the Tax Commissioner and the remaining money withheld  
27 shall be remitted by the Tax Commissioner to the municipality. The municipality shall then allocate  
28 the money related to costs, fines, forfeitures or penalties to the affected department. In the event  
29 the costs, fines, forfeitures or penalties exceed the licensee's income tax refund, the Tax  
30 Commissioner shall withhold the remaining balance in subsequent years until such time as the  
31 costs, fines, forfeitures or penalties owed are paid in full. The Tax Commissioner shall remit the  
32 moneys that he or she collects to the appropriate municipality no later than July 1 of each year.

33 (d) If the municipal utility office or the municipality subsequently determines that any costs,  
34 fines, forfeitures or penalties were erroneously imposed, the municipality shall promptly notify the  
35 Tax Commissioner. If the refunds have not been withheld and remitted, the Tax Commissioner  
36 may not withhold and remit payment to the municipality and shall so inform the municipality. If the  
37 refunds have already been withheld and remitted to the municipality, the Tax Commissioner shall  
38 so inform the municipality. All refunds for erroneously imposed costs, fines, forfeitures or penalties  
39 shall be made by the municipality, not the Tax Commissioner.

NOTE: The purpose of this bill is to permit municipalities to collect unpaid utility bills, trash, refuse, demolition, landfill fees or other fees. The bill establishes a procedure. The bill sets forth a fee structure. The bill creates the Municipal Fines and Fees Collection Fund. The bill grants rule-making authority.

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