

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2754

FISCAL
NOTE

BY DELEGATES AMBLER, WESTFALL, BUTLER,

HARSHBARGER, COOPER AND WALTERS

[Introduced March 1, 2017; Referred
to the Committee on Political Subdivisions then
Finance.]

1 A BILL to amend and reenact §8-15-3 of the Code of West Virginia, 1931, as amended, relating
2 to fire fees on nonresidents of a municipality who are users of that municipality's fire
3 service; capping the amount of the fees which can be imposed; and excluding charges for
4 certain buildings.

Be it enacted by the Legislature of West Virginia:

1 That §8-15-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted
2 to read as follows:

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL
SERVICE FOR PAID FIRE DEPARTMENTS.**

**§8-15-3. Municipalities empowered and authorized to contract for prevention and
extinguishment of fires beyond the corporate limits.**

1 (a) Any municipality may contract to render services in the prevention and extinguishment
2 of fires upon property located within the state. A municipality may contract beyond its immediate
3 boundary limit for fire service protection if fire protection is provided in accordance with and under
4 a rural fire protection district plan based upon the fire suppression rating schedule approved by
5 the state Insurance Commissioner. All rural fire protection district plans shall be approved by the
6 state Fire Commission. No rural fire protection district plan providing for a municipality to contract
7 beyond its boundary may infringe upon an existing fire department's response area without the
8 written consent of the fire department providing fire services for that area.

9 No contract entered into under the authority of this section may operate to impose any
10 greater obligation or liability upon the municipality than that with respect to property within its
11 corporate limits under an approved rural fire protection district plan. Nothing contained in this
12 section may be construed as requiring any municipality to contract to render such services. A
13 municipality providing fire services under contract to any property outside its corporate limits may
14 offer fire service under contract to any property within the county if the property owner requests

15 the protection.

16 Any contract entered into under the authority of this section, on or after July 1, 1969, shall
17 require the ~~property owner~~ of served property located outside the corporate limits of the serving
18 municipality to pay as consideration for said services an annual payment, determined as provided
19 in the remainder of this subsection. If the municipality does not impose a fire service fee on the
20 users of such service within the municipality as authorized in section thirteen, article thirteen of
21 this chapter, the annual payment shall be equivalent to ~~eighty~~ thirty-three percent of the annual
22 tax levied for current municipal purposes upon property within said municipality of like assessed
23 valuation to the property under contract. If the municipality does impose a fire service fee on the
24 users of such service within the municipality, as authorized in said section, the annual payment
25 shall be based upon the area of structures used or intended to be used for residential or general
26 business purposes, and may not include charges for buildings used or intended to be used for
27 the production, storage or housing of agricultural products, as defined in section two, article one-
28 b, chapter nineteen of this code, or a building used or intended to be used for the storage of
29 nonflammable products, and shall otherwise be equivalent to the amount of fire service fee which
30 would be imposed if the property under contract were located within the municipality. ~~plus at least~~
31 ~~fifty percent of the annual tax levied for current municipal purposes upon property within said~~
32 ~~municipality of like assessed valuation to the property under contract~~ No contract entered into
33 under the authority of this section, and nothing herein contained, may be construed as requiring
34 or permitting any municipality to install or maintain any special additional apparatus or equipment
35 beyond that necessary for the protection of property within its corporate limits.

36 (b) The annual payments due under any such contract are payable on or before October
37 1, of each calendar year in which such contract remains in effect, or upon such day as may be
38 hereinafter provided as the due date of the first installment of ad valorem taxes. If any annual
39 payment is in default for a period of more than thirty days, it shall bear interest at the same rate
40 as that provided for delinquent property taxes and shall be a lien upon the property under contract

41 if a notice of such lien is recorded in the proper deed of trust book in the office of the clerk of the
42 county commission of the county in which such property or the major portion thereof is located.
43 Such lien is void at the expiration of two years after such defaulted annual payment became due,
44 unless within such two-year period a civil action seeking equitable relief to enforce the lien was
45 instituted by the municipality. The municipality may by civil action collect any annual payment and
46 the interest thereon at any time within five years after such payment became due; and upon
47 default in any annual payment, the municipality may cancel the contract involved.

48 (c) Any contract made under the authority of this section shall inure to the benefit of and
49 be binding upon the successors in title of the person making the same contract; and such person,
50 upon conveying the property subject to such contract, is no longer liable under such contract,
51 except as to annual payments which were due prior to the conveyance and which remain unpaid.

52 (d) Any property owner may cancel any such contract with respect to the property of such
53 owner upon giving a thirty-day written notice to the municipality, if the owner is not in default with
54 respect to any annual payment due thereunder, except that if such notice is given subsequent to
55 July 1, of any calendar year, the next succeeding annual payment shall be made by the property
56 owner as soon as the amount thereof is ascertainable. Upon cancellation as aforesaid, the
57 municipality shall deliver to the property owner a recordable release discharging such owner and
58 such property from any further lien or obligation with respect to the annual payments. The annual
59 payments due under any such contract shall be made to the officials as the municipality, in the
60 contract, designates to receive them, who likewise may receive notice of cancellation and execute
61 upon behalf of the municipality the release for which provision is hereinbefore made.

NOTE: The purpose of this bill is to cap the fire fees on nonresidents of a municipality who are users of that municipality's fire service. The bill excludes charges for certain buildings.

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