

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4451

BY DELEGATES FOSTER, JENNINGS, MCGEEHAN, FAST,
TONEY, BIBBY, BARTLETT, BUTLER, ANGELUCCI, HOWELL
AND ESPINOSA

[Introduced January 22, 2020; Referred to the
Committee on Political Subdivisions then the
Judiciary]

1 A BILL to amend and reenact §8-13-13 of the Code of West Virginia, 1931, as amended, relating
2 to charging fees for municipal services and prohibiting municipalities from assessing fees
3 to people on the basis of employment within the municipal boundaries.

Be it enacted by the Legislature of West Virginia:

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: Provided, That no fee shall be charged or assessed against a
10 person solely because that person is employed within the jurisdiction of the municipality.

11 (b) Any sewerage and sewage disposal service and any service incident to the collection
12 and disposal of garbage, refuse, waste, ashes, trash and any other similar matter is subject to the
13 provisions of Chapter 24 of this code.

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

16 (d) A municipality has authority to enact an ordinance, pursuant to this section, permitting
17 it to file a lien on real property located within the municipal corporate limits for unpaid and
18 delinquent fire, police or street fees. The ordinance must provide an administrative procedure for
19 the municipality's assessment and collection of the fees. The administrative procedure must
20 require that, before any lien is filed, the municipality will give notice to the property owner, by

21 certified mail, return receipt requested, that the municipality will file the lien unless the delinquency
22 is paid by a date stated in the notice, which must be no less than 90 days from the date the notice
23 is mailed. The administrative procedure must include the right to appeal to the circuit court of the
24 county in which the real property is located. The circuit court shall consider the appeal under its
25 general authority, including, but not limited to, §51-2-2(f) of this code.

26 (e) Notwithstanding the provisions of §8-11-4 of this code, any ordinance enacted or
27 substantially amended under the provisions of this section shall be published as a Class II legal
28 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code. The publication
29 area for the publication is the municipality.

30 (f) In the event 30 percent of the qualified voters of the municipality, by petition duly signed
31 by them in their own handwriting and filed with the recorder of the municipality within 45 days after
32 the expiration of the publication, protest against the ordinance as enacted or amended, the
33 ordinance shall not become effective until it is ratified by a majority of the legal votes cast by the
34 qualified voters of the municipality at a regular municipal election or special municipal election, as
35 the governing body directs. Voting shall not take place until after notice of the submission is given
36 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.

NOTE: The purpose of this bill is to prevent municipalities from charging an employment fee or user fee based upon a person's employment within a city's jurisdiction.

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