

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

House Bill 4542

(By Delegates Canterbury and Ambler)

[Introduced February 16, 2016;

referred to the Committee on Political Subdivisions

then Judiciary.]

1 A BILL to amend and reenact §8-15-3 of the Code of West Virginia, 1931, as amended, relating
2 to the imposition of fire fees on non-residents of a municipality who are users of that
3 municipality's fire service; capping the amount of such fees which can be imposed,
4 providing for a referendum on this issue of fire service, and petition requirements for
5 triggering the same.

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
2 reenacted 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 first 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. Nothing contained in this section may be construed as requiring any municipality
12 to contract to render such services. A municipality providing fire services under contract to any
13 property outside its corporate limits under an approved rural fire protection district plan may offer

14 fire service under contract to any property within the county if the property owner requests the
15 protection.

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

37 (b) The annual payments due under any such contract are payable on or before the first
38 day of October of each calendar year in which such contract remains in effect, or upon such day
39 as may be hereinafter provided as the due date of the first installment of ad valorem taxes. If any

40 annual payment is in default for a period of more than thirty days, it shall bear interest at the same
41 rate as that provided for delinquent property taxes and shall be a lien upon the property under
42 contract if a notice of such lien is recorded in the proper deed of trust book in the office of the
43 clerk of the county commission of the county in which such property or the major portion thereof
44 is located. Such lien is void at the expiration of two years after such defaulted annual payment
45 became due, unless within such two-year period of civic 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 the first day of July of any calendar year, the next succeeding annual payment shall be made by
56 the property owner as soon as the amount thereof is ascertainable. Upon cancellation as
57 aforesaid, the municipality shall deliver to the property owner a recordable release discharging
58 such owner and such property from any further lien or obligation with respect to the annual
59 payments. The annual payments due under any such contract shall be made to the officials as
60 the municipality, in the contract, designates to receive them, who likewise may receive notice of
61 cancellation and execute upon behalf of the municipality the release for which provision is
62 hereinbefore made.