

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 3043

FISCAL
NOTE

BY DELEGATE FOSTER

[Introduced February 12, 2019; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §8-13-13 of the Code of West Virginia, 1931, as amended, relating
2 to clarifying that municipalities may enact ordinances for rates, fees, and charges based
3 upon actual use of services and not solely based upon an individual's employment in
4 municipality.

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 ordinances establishing rates, fees, and
10 charges be based upon actual use of such essential or special municipal service and not solely
11 upon the basis of an individual's employment within a municipality.

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

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

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

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

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

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

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

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

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

NOTE: The purpose of this bill is to a municipality's power to enact ordinances for rates, fees and charges based upon actual use of services and not solely based upon an individual's employment in municipality.

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