

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2842

BY DELEGATES HIGGINBOTHAM, ANDERSON,
HOUSEHOLDER, J. KELLY, WAMSLEY, KESSINGER,
STATLER, ELLINGTON, G. WARD, KIMBLE AND ZATEZALO

[Introduced March 02, 2021; Referred to the
Committee on Political Subdivisions then the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §8-12-22, relating to placing limitations on the authority of municipalities and
 3 local governments to enact any code, ordinance, or land use regulation that would prohibit,
 4 have the effect of prohibiting, or regulate in any manner a public utility or department of
 5 public utilities from furnishing a utility service to a utility customer based on an energy
 6 source provided or used by a utility service, a customer of a public utility or department of
 7 public utilities from purchasing, using, or connecting or reconnecting to a utility service
 8 based on the energy source provided or used by a utility service, a public utility or
 9 department of public utilities from utilizing vehicles, equipment, machinery, or tools, to
 10 provide utility services to a utility customer based on the energy source used by or
 11 powering vehicles, equipment, machinery, or tools used by utility service; and defining
 12 terms.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED
 RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL
 OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.**

§8-12-22. Limitations on Municipalities and Local Government Authority Over Energy

Usage and Development.

1 (a) As used in this section:

2 “Energy source” means the method of generation, or the fuel source, used to provide or
 3 supply utility service to a customer. The term includes any nonrenewable or renewable energy
 4 source.

5 “Governing body” shall mean the mayor and council together, the council, the board of
 6 directors, the commission, or other board or body of any municipality with the responsibility of
 7 enacting ordnances and determining public policy as defined in §8-1-2(b)(1) of this code.

8 “Municipality” shall mean and include any Class I, Class II, and Class III city and any Class
9 IV town or village, heretofore or hereafter incorporated as a municipal corporation under the laws
10 of this state, as defined in §8-1-2(a)(1) of this code.

11 “Private property” means real property that is not owned or leased by a municipality or
12 county.

13 “Utility service” means any service provided by a public utility including, but not limited to:
14 (1) The generation, production, transmission, or distribution of electricity to or for the public, for
15 compensation; or the production, manufacture, storage, transportation, distribution, sale, or (2)
16 furnishing of: (A) Natural gas; artificial or manufactured gas; or (B) a mixture of natural gas and
17 artificial or manufactured gas; to or for the public, for compensation; for heat, light, power, or other
18 uses.

19 (b) A municipality or governing body, as defined in this section, does not have the power
20 to enact any code, ordinance, or land use regulation that would prohibit or have the effect of
21 prohibiting, or to otherwise regulate in any manner prohibiting or have the effect of prohibiting:

22 (1) A public utility or department of public utilities from furnishing a utility service to a utility
23 customer based on an energy source provided or used by a utility service;

24 (2) A customer of a public utility or department of public utilities from purchasing, using, or
25 connecting or reconnecting to a utility service based on the energy source provided or used by a
26 utility service; or

27 (3) A public utility or department of public utilities from utilizing vehicles, equipment,
28 machinery, or tools, to provide utility services to a utility customer based on the energy source
29 used by or powering vehicles, equipment, machinery, or tools used by utility service.

30 (c) Any code, ordinance, land use regulation, or general or specific plan provision adopted
31 by a municipality or governing body must preserve the ability of an owner of private property to
32 use the utility service of a utility service provider that is otherwise authorized under this code.

NOTE: The purpose of this bill is to prohibit municipalities from banning certain utility companies.

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