

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2953

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LINVILLE, HOTT, D. JEFFRIES, GRAVES, TULLY, STORCH
AND FORSHT

[Introduced March 05, 2021; Referred to the Committee on
Fire Departments and Emergency Medical Services then
the Judiciary]

1 A BILL to amend and reenact §7-17-3 and §7-17-12 of the Code of West Virginia, 1931, as
 2 amended, all relating to clarifying that counties may hire firefighters as paid staff; and to
 3 modifying the existing procedures to include a procedure of public hearing to commission
 4 a vote without the 10 percent threshold, as it relates to amending fire fees.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. COUNTY FIRE BOARDS.

§7-17-3. County fire association creation; prohibiting entrance by a municipality maintaining a full time paid fire department.

1 The fire departments within each county are hereby authorized to create and establish a
 2 county fire association, hereinafter referred to as “fire association.” The county fire association is
 3 created to discuss fire protection services to address fire protection problems at the county level.

4 Upon the creation of a fire association, any full-time paid fire department located in a
 5 municipality, as defined in §8-15-9 of this code is excluded from the provisions of this article.

6 However, this provision shall not prohibit the county commission or the fire board with the
 7 approval of the county commission from contracting with any ~~municipal~~ political subdivision fire
 8 department for fire protection services rendered to the county.

§7-17-12. County fire service fees; petition; election; dedication; and increase amendment.

1 (a) Every county commission which provides fire protection services has plenary power
 2 and authority to provide by ordinance for the continuance or improvement of such service, to
 3 make regulations with respect thereto and to impose by ordinance, upon the users of such
 4 services, reasonable fire service rates, fees and charges to be collected in the manner specified
 5 in the ordinance. However, before a county commission can impose by ordinance, upon the users
 6 of such service, a reasonable fire service fee, ten percent of the qualified voters shall present a
 7 petition duly signed by them in their own handwriting, and filed with the clerk of the county
 8 commission directing that the county commission impose such a fee. The county commission
 9 shall not have a lien on any property as security for payments due under the ordinance. Any

10 ordinance enacted under the provisions of this section shall be published as a Class II legal
11 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the
12 publication area for such publication shall be the county in which the county fire board is located.
13 In the event 30 percent of the qualified voters of the county by petition duly signed by them in their
14 own handwriting and filed with the clerk of the county commission within 45 days after the
15 expiration of such publication protest against such ordinance as enacted or amended, the
16 ordinance may not become effective until it is ratified by a majority of the legal votes cast thereon
17 by the qualified voters of such county at any primary, general or special election as the county
18 commission directs. Voting thereon may not take place until after notice of the submission has
19 been given by publication as above provided for the publication of the ordinance after it is adopted.
20 The powers and authority hereby granted to county commissions are in addition to and
21 supplemental to the powers and authority otherwise granted to them by other provisions of this
22 code.

23 (b) Any fees imposed under this article are dedicated to the county fire board for the
24 purposes provided in this article.

25 (c) If the county fire board determines an amendment in the fee imposed in subsection (a)
26 of this article is necessary, it shall, by resolution, request the county commission for such a
27 change. Upon receipt of the resolution from the county fire board, the county commission shall,
28 by ballot referendum, amend the ordinance imposing a fire fee and adopt the changes in the fee
29 requested by the fireboard.

30 (1) This referendum to determine whether it is the will of the voters of a county that an
31 amendment to the fire fee is necessary may be held at any regular primary or general election or
32 in conjunction with any other countywide election. Any election at which the question of amending
33 the fire fee is voted upon shall be held at the voting precincts established for holding primary or
34 general elections. All of the provisions of the general election laws, when not in conflict with the
35 provisions of this article, shall apply to voting and elections hereunder, insofar as practicable. The

36 county commission shall, not less than 70 days before the election, order that the issue be placed
 37 on the ballot and referendum held at the next primary, general or special election to determine
 38 whether it is the will of the voters of the county that a fire fee be amended.

39 (2) The ballot, or the ballot labels where voting machines are used, shall have printed
 40 thereon substantially the following:

41 "Shall the county commission be permitted to amend the fire fee in _____ County,

42 ___ For the fee amendment. West Virginia?

43 ___ Against the fee amendment.

44 (Place a cross mark in the square opposite your choice.)"

45 (3) If a majority of legal votes cast upon the question be for the fire fee amendment, the
 46 county commission shall, after the certification of the results of the referendum, thereafter adopt
 47 an ordinance, within 180 days of certification, establishing the fire fee amendment in the county:
 48 Provided, That such program shall be implemented and operational no later than 12 months
 49 following certification. If a majority of the legal votes cast upon the question be against the fire fee
 50 amendment, the policy shall not take effect, but the question may again be submitted to a vote at
 51 any subsequent election in the manner herein provided.

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NOTE: The purpose of this bill is to clarify that counties can hire firefighters as paid staff and to modify the existing procedures to include a referendum procedure by a county commission, as it relates to amending fire fees for counties.

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