

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2132

By Delegate Steele

[Introduced January 11, 2023; Referred to the Committee

on Political Subdivisions then Finance]

1 A BILL to amend and reenact §8-13-13 of the Code of West Virginia, 1931, as amended, relating to
 2 providing that a municipal services user fee may not be imposed on employees of the state
 3 because of their employment status.

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~~ may provide by ordinance for the installation, continuance,
 7 maintenance or improvement of the service, to make reasonable regulations of the service, and to
 8 impose by ordinance upon the users of the service reasonable rates, fees, and charges to be
 9 collected in the manner specified in the ordinance.

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

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

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

21 unless the delinquency is paid by a date stated in the notice, which ~~must~~ shall be no less than 90
22 days from the date the notice is mailed. The administrative procedure ~~must~~ shall include the right
23 to appeal to the circuit court of the county in which the real property is located. The circuit court
24 shall consider the appeal under its general authority, including, but not limited to, §51-2-2(f) of this
25 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~~ If 30 percent of the qualified voters of the municipality, by petition duly
31 signed by them in their own handwriting and filed with the recorder of the municipality within 45
32 days after the expiration of the publication, protest against the ordinance as enacted or amended,
33 the ordinance shall not become effective until it is ratified by a majority of the legal votes cast by
34 the qualified voters of the municipality at a regular municipal election or special municipal election,
35 as the governing body directs. Voting ~~shall~~ may not take place until after notice of the submission
36 is given 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
41 provided in this section are imposed by the governing body of a municipality for the purpose of
42 replacing, and in amounts approximately sufficient to replace in its general fund amounts
43 appropriated to be paid from ad valorem taxes upon property within the municipality, pursuant to
44 an election duly called and held under the Constitution and laws of the state to authorize the
45 issuance and sale of the municipality's general obligation bonds for public improvement purposes,
46 the call for the election shall state that the governing body of the municipality proposes to impose

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

53 (i)(1) A user fee imposed under this section may not be imposed on an employee of the
54 state because of their employment status with the state.

55 (2) Neither the State Auditor nor any state employing unit may withhold from compensation
56 due a state employee a user fee imposed by a municipality under this section.

NOTE: The purpose of this bill is to stop the collection of municipal user fees from state employees.

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