

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2181

By Delegates Pinson, Horst, Hillenbrand, and

Ridenour

[Introduced February 12, 2025; referred
to the Committee on Energy and Public Works]

1 A BILL to amend and reenact §7-20-3 and §8-18-1 of the Code of West Virginia, 1931, as
2 amended; relating to prohibiting a county or municipality from charging a private
3 landowner, with a private sanitary sewer system, fees based on the county or municipality
4 sanitary sewer system; or for improvements for construction of, a county or municipal
5 sanitary sewer system; or being required to connect to a county or municipality sanitary
6 sewer system, or being charged a fee for the county or municipal sanitary sewer system.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 20. FEES AND EXPENDITURES FOR COUNTY DEVELOPMENT.

§7-20-3. Definitions.

1 (a) "Capital improvements" means the following public facilities or assets that are owned,
2 supported or established by county government:

- 3 (1) Water treatment and distribution facilities;
- 4 (2) Wastewater treatment and disposal facilities;
- 5 (3) Sanitary sewers;
- 6 (4) Storm water, drainage, and flood control facilities;
- 7 (5) Public primary and secondary school facilities;
- 8 (6) Public road systems and rights-of-way;
- 9 (7) Parks and recreational facilities; and
- 10 (8) Police, emergency medical, rescue, and fire protection facilities.

11 "Capital improvements" as defined herein is limited to those improvements that are treated
12 as capitalized expenses according to generally accepted governmental accounting principles and
13 that have an expected useful life of no less than three years. "Capital improvement" does not
14 include costs associated with the operation, repair, maintenance, or full replacement of capital
15 improvements. "Capital improvement" does include reasonable costs for planning, design,

16 engineering, land acquisition, and other costs directly associated with the capital improvements
17 described herein.

18 (b) "County services" means the following: (1) Services provided by administration and
19 administrative personnel, law enforcement and its support personnel; (2) street light service; (3)
20 firefighting service; (4) ambulance service; (5) fire hydrant service; (6) roadway maintenance and
21 other services provided by roadway maintenance personnel; (7) public utility systems and
22 services provided by public utility systems personnel, water; and (8) all other direct and indirect
23 county services authorized by this code.

24 (c) "Direct county services" means those public services authorized and provided by
25 various county agencies or departments.

26 (d) "Indirect county services" means those public services authorized and provided by
27 commissioned agents, agencies or departments of the county.

28 (e) "Growth county" means any county within the state with an averaged population growth
29 rate in excess of one percent per year as determined from the most recent decennial census
30 counts and forecasted, within decennial census count years, by official records of government or
31 generally approved standard statistical estimate procedures: *Provided*, That once "growth county"
32 status is achieved it is permanent in nature and the powers derived hereby are continued.

33 (f) "User" means any member of the public who uses or may have occasion to use county
34 facilities and services as defined herein: *Provided*, That a private landowner, who has a private
35 sanitary sewer system that was installed prior to a county constructing a sanitary sewer system, is
36 not a "user" as otherwise defined in this section and may not be required to be responsible for the
37 costs or improvements to, or construction of, a county sanitary sewer system, nor may the private
38 landowner be required to connect to a county` sanitary sewer system, nor may a county charge a
39 fee to a private landowner based on the county sanitary sewer system.

40 (g) "Impact fees" means any charge, fee, or assessment levied as a condition of the
41 following: (1) Issuance of a subdivision or site plan approval; (2) issuance of a building permit; and

(3) approval of a certificate of occupancy, or other development or construction approval when any portion of the revenues collected is intended to fund any portion of the costs of capital improvements for any public facilities or county services not otherwise permitted by law. An impact fee does not include charges for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged structure, provided there is no increase in gross floor area or in the number of dwelling units that result therefrom.

~~(h)~~ "Proportionate share" means the cost of capital improvements that are reasonably attributed to new development less any credits or offsets for construction or dedication of land or capital improvements, past or future payments made or reasonably anticipated to be made by new development in the form of user fees, debt service payments, taxes or other payments toward capital improvement costs.

~~(i)~~ "Reasonable benefit" means a benefit received from the provision of a capital improvement greater than that received by the general public located within the county wherein an impact fee is being imposed.

~~(j)~~ "Plan" means a county, comprehensive, general, master or other land use plan as described herein.

~~(k)~~ "Program" means the capital improvements program described herein.

~~(l)~~ "Unincorporated area" and "total unincorporated area" means all lands and resident estates of a county that are not included within the corporate, annexed areas or legal service areas of an incorporated or chartered municipality, city, town or village located in the State of West Virginia.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 18. ASSESSMENTS TO IMPROVE STREETS, SIDEWALKS AND SEWERS; SEWER CONNECTIONS AND BOARD OF HEALTH; ENFORCEMENT OF DUTY TO PAY FOR SERVICE.

PART I. POWER AND AUTHORITY TO MAKE IMPROVEMENTS.

§8-18-1. Power and authority of municipalities relating to street, sidewalk, sewer and other permanent improvements.

1 Every municipality is ~~hereby empowered and authorized~~ may, in addition to any other
2 rights, power and authority conferred upon it, upon the terms, conditions and in the manner
3 hereinafter set forth, ~~to~~ grade or regrade, pave or repave, surface or resurface, curb or recurb,
4 streets (which term is used in this article to include avenues and roads), alleys, public ways or
5 easements, or portions thereof, and to build or renew sidewalks, and to construct, provide or
6 renew any of such improvements or other permanent public improvements in any streets, alleys,
7 public ways or easements, or portions thereof, in such municipality, and, if deemed advisable, to
8 construct storm and sanitary sewers, or all or a part of a storm or sanitary or combined storm and
9 sanitary sewer system in any streets, alleys, public ways or easements, or sewer ~~right-of-ways~~
10 rights of way or easements, or portions thereof, independently or in conjunction with other of such
11 improvements, and to assess the costs of any or all of such improvements on abutting property:
12 Provided, That if a private landowner has a private sanitary sewer system that was installed prior
13 to a municipality constructs a sanitary sewer system, the private landowner may not be required to
14 be responsible for the costs or improvements to a municipal sanitary sewer system, nor may the
15 private landowner be required to connect to the municipal sanitary sewer system, and a
16 municipality may not charge a fee to a private landowner based on the municipal sanitary sewer
17 system.

NOTE: The purpose of this bill is to prohibit a county or municipality from charging, a private landowner with a private sanitary sewer system, fees based on the county or municipality sanitary sewer system; or for improvements for construction of, a county or municipal sanitary sewer system; or being required to connect to a county or municipality sanitary sewer system, or being charged a fee for the county or municipal sanitary sewer system.

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