

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2866

By Delegate Burkhammer

[Introduced February 24, 2025; referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §7-17-12 and §8-13-13 of the Code of West Virginia, 1931, as
2 amended, relating to fees and charges for municipality provided fire services; and
3 providing that residents or businesses situate outside municipal boundaries may not be
4 required to pay fire service fees simultaneously to a municipality or county commission.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 17. COUNTY FIRE BOARDS.

§7-17-12. County fire service fees; ~~petition; election; dedication; and 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 the 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.

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

8 (c) A county commission ~~can~~ may impose by ordinance, upon the users of such service, a
9 reasonable fire service fee, ~~by one of two methods:~~

10 ~~(1) Ten percent of the qualified voters shall present a petition duly signed by them in their~~
11 ~~own handwriting, and filed with the clerk of the county commission, directing that the county~~
12 ~~commission impose such a fee. The county commission shall not have a lien on any property as~~
13 ~~security for payments due under the ordinance. Any ordinance enacted under the provisions of~~
14 ~~this section shall be published as a Class II legal advertisement in compliance with the provisions~~
15 ~~of §59-3-1 et seq. of this code, and the publication area for such publication shall be the county in~~
16 ~~which the county fire board is located. In the event 30 percent of the qualified voters of the county~~
17 ~~by petition duly signed by them in their own handwriting and filed with the clerk of the county~~

~~commission within 45 days after the expiration of such publication protest against such ordinance as enacted or amended, the ordinance may not become effective until it is ratified by a majority of the legal votes cast thereon by the qualified voters of such county at any primary or general election as the county commission directs. Voting thereon may not take place until after notice of the submission has been given by publication as above provided for the publication of the ordinance after it is adopted. The powers and authority hereby granted to county commissions are in addition to and supplemental to the powers and authority otherwise granted to them by other provisions of this code; or~~

~~(2) If the county fire board determines an amendment in the fee imposed in subsection (a) of this article is necessary, it may, by resolution, request the county commission for such a change. Upon receipt of the resolution from the county fire board, the county commission may take such action on the resolution as, in the sole exercise of its discretion, the commission determines is appropriate, including, but not limited to, rejection thereof. If the county commission agrees that an amendment of the fee is necessary, it shall, by ballot referendum, amend the ordinance imposing a fire fee and adopt the changes in the fee it has determined is necessary.~~

~~(A) This referendum, to determine whether it is the will of the voters of a county that an amendment to the fire fee is necessary, may be held at any regular primary or general election, or, in conjunction with any other countywide election. Any election at which the question of amending the fire fee is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the election laws, when not in conflict with the provisions of this article, shall apply to voting and elections hereunder, insofar as practicable. The county commission shall, not less than 90 days before the election, order that the issue be placed on the ballot and referendum held at the next primary or general election to determine whether it is the will of the voters of the county that a fire fee be amended: *Provided*, That prior to issuing the order, the county commission shall publish the ordinance which must contain the anticipated allocation of any fees or charges and which would be enacted should the referendum succeed as a Class II~~

~~legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code, and the publication area for such publication shall be the county in which the county fire board is located.~~

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

~~"Shall the county commission be permitted to amend the fire fee in _____ County, West Virginia?~~

~~___ For the fee amendment.~~

~~___ Against the fee amendment.~~

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

~~(C) If a majority of legal votes cast upon the question be for the fire fee amendment, the county commission shall, after the certification of the results of the referendum, thereafter adopt an ordinance, within 60 days of certification, establishing the fire fee amendment in the county: *Provided*, That such program shall be implemented and operational no later than 12 months following certification. If a majority of the legal votes cast upon the question be against the fire fee amendment, then the policy shall not take effect, but the question may again be submitted to a referendum at any subsequent election in the manner herein provided.~~

~~(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.~~

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 13. TAXATION AND FINANCE.

§8-13-13. Special charges for municipal services.

(a) Notwithstanding any charter provisions to the contrary, a municipality which furnishes any essential or special municipal service, including, but not limited to, police and fire protection, 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: ~~Provided, That no new fire protection fee or~~
10 ~~charge effective on or after June 30, 2024, may be imposed pursuant to this section on any~~
11 ~~resident or business situated outside the boundaries of any municipality until June 30, 2025:~~
12 ~~Provided, however, That this prohibition does not prohibit a municipality from increasing or~~
13 ~~decreasing a fire protection fee or charge, in accordance with this section, in effect prior to June~~
14 ~~30, 2024~~ Provided, That no ordinance for fire protection fee or charge may be imposed pursuant to
15 this section on any resident or business situated outside the boundaries of any municipality
16 without approval of the county commission having jurisdiction over that resident or business:
17 Provided, however, That no resident or business situated outside the boundaries of any
18 municipality may be required to simultaneously pay any fire protection fee or charge imposed by
19 both a municipality and the county commission of the county in which that municipality is situated.

20 (b) Any sewerage and sewage disposal service and any service incident to the collection
21 and disposal of garbage, refuse, waste, ashes, trash, and any other similar matter is subject to the
22 provisions of Chapter 24 of this code.

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

25 (d) A municipality may enact an ordinance, pursuant to this section, permitting it to file a
26 lien on real property located within the municipal corporate limits for unpaid and delinquent fire,
27 police, or street fees. The ordinance ~~must~~ shall provide an administrative procedure for the
28 municipality's assessment and collection of the fees. The administrative procedure ~~must~~ shall
29 require that, before any lien is filed, the municipality will give notice to the property owner, by

certified mail, return receipt requested, that the municipality will file the lien unless the delinquency is paid by a date stated in the notice, which ~~must~~ shall be no less than 90 days from the date the notice is mailed. The administrative procedure ~~must~~ shall include the right to appeal to the circuit court of the county in which the real property is located. The circuit court shall consider the appeal under its general authority, including but not limited to §51-2-2(f) of this code.

(e) Notwithstanding the provisions of §8-11-4 of this code, any ordinance enacted or substantially amended under the provisions of this section shall be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code. The publication area for the publication is the municipality.

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

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

(h) Notwithstanding any other provisions of this section, if rates, fees, and charges provided in this section are imposed by the governing body of a municipality for the purpose of replacing, and in amounts approximately sufficient to replace in its general fund amounts appropriated to be paid from ad valorem taxes upon property within the municipality, pursuant to an election duly called and held under the Constitution and laws of the state to authorize the issuance and sale of the municipality's general obligation bonds for public improvement purposes, the call for the election shall state that the governing body of the municipality proposes to impose

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

62 (i) Payments for rates, fees, and charges due under this section that are postmarked after
63 the due date by which they are owed shall be considered late and may be subject to late fees or
64 penalties: *Provided*, That payments that are received by the municipality after the due date, but
65 that were postmarked on or before the due date shall be considered to be on time and shall not be
66 assessed any late fees or penalties.

NOTE: To modify the process to impose county and municipal fine fees.

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