

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2866

By Delegate Burkhammer

[Originating in the Committee on Government

Organization; Reported on March 28, 2025]

1 A BILL to amend and reenact §8-13-13 of the Code of West Virginia, 1931, as amended, relating to
2 fees and charges for municipality-provided fire services; providing that no municipality may
3 impose any new fire protection service fee, effective on or after June 30, 2024, on a person
4 located in a county that has imposed a fire service fee without an intergovernmental
5 agreement in place between the municipality and the county commission; providing the
6 required contents of the agreement; providing an exception for increasing existing fees.

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, subject to the limitations set forth in subsection (b) of this section, ~~has~~
7 ~~plenary power and authority to~~ provide by ordinance for the installation, continuance,
8 maintenance, or improvement of the service, to make reasonable regulations of the service, and to
9 impose by ordinance upon the users of the service reasonable rates, fees, and charges to be
10 collected in the manner specified in the ordinance. ~~Provided, That no new fire protection fee or~~
11 ~~charge effective on or after June 30, 2024, may be imposed pursuant to this section on any~~
12 ~~resident or business situated outside the boundaries of any municipality until June 30, 2025:~~
13 ~~Provided, however, That this prohibition does not prohibit a municipality from increasing or~~
14 ~~decreasing a fire protection fee or charge, in accordance with this section, in effect prior to June~~
15 ~~30, 2024.~~

16 (b)(1) No new fire protection fee or charge, effective on or after June 30, 2024, may be
17 imposed pursuant to this section on a person or business situated outside of the municipality's

boundaries in a county that has imposed a county fire service fee pursuant to §7-17-12 of this code unless the municipality has entered into an intergovernmental agreement, which complies with the limitations set forth in subdivision (2) of this subsection, with the county commission having jurisdiction over any such person or business.

(2) The intergovernmental agreement referenced in subdivision (1) of this subsection must include, but is not limited to, the following terms:

(A) The municipality's fire protection fees and charges shall be limited to those persons and businesses located within first due areas covered by fire protection services sourced out of the municipality; and

(B) The municipality's fire protection fees and charges shall be the same for all persons and businesses located within and outside of the municipality's boundaries; and

(C) Under no circumstances may any person or business be required to pay both a municipal fire protection fee or charge pursuant to this section and a county fire service fee pursuant to §7-17-12 of this code, except for the pro-rata reconciliation during the first year after passage as set forth in paragraph (D) of this this subdivision; and

(D) If any persons and businesses located within first due areas have paid their county fire service fee during the first year after the effective date of the amendments to this section enacted during the 2025 Regular Legislative Session, then (i) any municipality's fire protection fees and charges imposed by the municipality shall be limited to the difference, if any, between the county's fire service fee and the municipality's fire protection fees and charges within its municipal boundaries; and (ii) the county shall transfer its fire service fee revenues received from all persons and businesses located within first due areas that are covered by the intergovernmental agreement to the municipality; and

(E) After the first year following the effective date of the amendments to this section enacted during the 2025 Regular Legislative Session, persons and businesses located within first due areas covered by the intergovernmental agreement between the county commission and the

44 municipality shall be subject only to the same municipal fire protection fees and charges which the
45 municipality charges all other residents within its municipal boundaries.

46 (3) Notwithstanding subdivisions (1) and (2) of this subsection, any municipality may
47 increase or decrease, in accordance with this section, a fire protection fee or charge that was in
48 effect prior to June 30, 2024, so long as such increase or decrease is uniform for all persons and
49 businesses that are subject to the municipality's fire protection fees and charges, whether by
50 residency within municipal boundaries or by being subject controlling intergovernmental
51 agreement.

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

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

57 ~~(d)~~(e) A municipality may enact an ordinance, pursuant to this section, permitting it to file a
58 lien on real property located within the municipal corporate limits for unpaid and delinquent fire,
59 police, or street fees. The ordinance ~~must~~ shall provide an administrative procedure for the
60 municipality's assessment and collection of the fees. The administrative procedure ~~must~~ shall
61 require that, before any lien is filed, the municipality will give notice to the property owner, by
62 certified mail, return receipt requested, that the municipality will file the lien unless the delinquency
63 is paid by a date stated in the notice, which ~~must~~ shall be no less than 90 days from the date the
64 notice is mailed. The administrative procedure ~~must~~ shall include the right to appeal to the circuit
65 court of the county in which the real property is located. The circuit court shall consider the appeal
66 under its general authority, including but not limited to §51-2-2(f) of this code.

67 ~~(e)~~(f) Notwithstanding the provisions of §8-11-4 of this code, any ordinance enacted or
68 substantially amended under the provisions of this section shall be published as a Class II legal

69 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code. The publication
70 area for the publication is the municipality.

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

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

81 ~~(h)~~(i) Notwithstanding any other provisions of this section, if rates, fees, and charges
82 provided in this section are imposed by the governing body of a municipality for the purpose of
83 replacing, and in amounts approximately sufficient to replace in its general fund amounts
84 appropriated to be paid from ad valorem taxes upon property within the municipality, pursuant to
85 an election duly called and held under the Constitution and laws of the state to authorize the
86 issuance and sale of the municipality's general obligation bonds for public improvement purposes,
87 the call for the election shall state that the governing body of the municipality proposes to impose
88 rates, fees, and charges in specified amounts under this section for the use of one or more of the
89 services specified in subsection (a) of this section, which shall be related to the public
90 improvement proposed to be made with the proceeds of the bonds, no notice, publication of
91 notice, or referendum, or election or other condition or prerequisite to the imposition of the rates,
92 fees, and charges shall be required or necessary other than the legal requirements for issuance
93 and sale of the general obligation bonds.

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