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LEGISLATURE OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

SENATE BILL NO. 395

(By Senators WIEDEBUSCH & BUCKLEWELL)



PASSED APRIL 10⁹ 1997

In Effect JULY 1, 1997 ~~Passage~~

ENROLLED

Senate Bill No. 395

(BY SENATORS WIEDEBUSCH AND BUCKALEW)

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[Passed April ~~10~~, 1997; to take effect July 1, 1997.]

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AN ACT to amend and reenact section five-a, article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to public utilities tax imposed by municipalities and the exceptions or exemptions thereto.

Be it enacted by the Legislature of West Virginia:

That section five-a, article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13. TAXATION AND FINANCE.

PART 1. POWERS OF TAXATION.

§8-13-5a. Public utilities tax.

1 Every municipality has the plenary power and authority

2 to levy and collect an excise tax on the privilege of
3 purchasing, using or consuming, within the corporate
4 limits of the municipality, public utility services and
5 tangible personal property from public utilities subject to
6 the jurisdiction of the public service commission of West
7 Virginia. The tax is computed on the basis of an amount
8 not to exceed two percent of the gross amount of each
9 periodic statement rendered purchasers or consumers by
10 public utilities: *Provided*, That sales of tangible personal
11 property such as appliances or the like, as distinguished
12 from the public service supplied, are not included in the
13 gross amount subject to the measure of this tax: *Provided*,
14 *however*, That this tax does not apply to sales of telecom-
15 munications services to another telecommunications
16 provider for the purposes of access, interconnection or
17 resale to consumers. Charges or fees for items on the
18 periodic statement that are not public utility services,
19 including surcharges for telecommunications relay
20 services for the hearing impaired and fees for enhanced
21 emergency telephone systems, are not included in the
22 gross amount subject to the measure of this tax. The
23 purchasers or consumers shall pay to the public utilities
24 the amount of the tax levied pursuant to this section
25 which is added to and constitutes a part of the cost of the
26 service or property so purchased or consumed and is
27 collectible as such by the public utilities who shall ac-
28 count to the municipality levying same for all tax paid by
29 the purchasers or consumers pursuant to the provisions of
30 any ordinance imposing the tax.

31 Any ordinance imposing the tax shall require the
32 collection thereof uniformly from all purchasers and
33 consumers of all the services and property within the
34 corporate limits of the municipality and contain reason-
35 able rules governing the collection thereof by the utilities
36 and the method of its payment and accounting to the
37 municipality: *Provided*, That the tax is not effective until
38 the municipality gives sixty days written notice by
39 certified mail to any utility doing business therein of the
40 effective date of the ordinance. Any required separation
41 of gross income shall occur in the ordinance whenever
42 necessary to comply with state or federal law: *Provided*,

43 *however*, That the tax authorized by this section shall not
44 be levied upon charges for telephone services which are
45 paid by the insertion of coins into coin-operated tele-
46 phones, and specific charges for telephone calls to points
47 outside the taxing municipality: *Provided further*, That
48 specific charges for telephone calls to points outside the
49 taxing municipality is construed to mean separately
50 itemized or bulk-billed charges for long distance telecom-
51 munications service to points outside the local exchange
52 service area. The charges subject to the tax authorized by
53 this section include local usage charges applicable to
54 telephone calls originating within the corporate limits of
55 the municipality which imposes the tax, regardless of
56 where the calls terminate, and also include the federal
57 subscriber line charge.

58 Notwithstanding any other provisions of the law to the
59 contrary contained in the code of West Virginia, one
60 thousand nine hundred thirty-one, as amended, the
61 provisions of this section are in addition to all other
62 taxing authority heretofore granted municipalities.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schoonover
.....
Chairman Senate Committee

Nick Fontasia
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1997.

Carroll Holmes
.....
Clerk of the Senate

Gregory M. Boy
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *22nd*.....
day of *April*....., 1997.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/16/97

Time

3:01 pm