

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

**Introduced**

### **House Bill 4498**

**FISCAL  
NOTE**

BY DELEGATES HAMRICK, WARD, MCGEEHAN AND

HOWELL

[Introduced February 12, 2018; 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  
 2 to charges for municipal services; prohibiting a municipality from requiring employers or  
 3 other third parties to withhold a user fee from compensation due an employee; specifying  
 4 that a user fee may not be imposed on a state officer or an employee of the state because  
 5 of their employment status; and prohibiting the State Auditor and state employing units  
 6 from withholding from compensation due a state employee or officer a municipal user fee.

*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 provide by ordinance for the installation, continuance, maintenance  
 7 or improvement of the service, to make reasonable regulations of the service, and to impose by  
 8 ordinance upon the users of the service reasonable rates, fees and charges to be collected in the  
 9 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~~ does 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 enact an ordinance, pursuant to this section, permitting  
 16 it to file a lien on real property located within the municipal corporate limits for unpaid and  
 17 delinquent fire, police or street fees. The ordinance must provide an administrative procedure for

18 the municipality's assessment and collection of the fees. The administrative procedure must  
19 require that, before any lien is filed, the municipality will give notice to the property owner, by  
20 certified mail, return receipt requested, that the municipality will file the lien unless the delinquency  
21 is paid by a date stated in the notice, which must be no less than ninety days from the date the  
22 notice is mailed. The administrative procedure must include the right to appeal to the circuit court  
23 of the county in which the real property is located. The circuit court shall consider the appeal under  
24 its general authority, including, but not limited to, §51-2-2(f) of this code.

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

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

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

39 (h) Notwithstanding any other provisions of this section, if rates, fees and charges provided  
40 in this section are imposed by the governing body of a municipality for the purpose of replacing,  
41 and in amounts approximately sufficient to replace in its general fund amounts appropriated to be  
42 paid from ad valorem taxes upon property within the municipality, pursuant to an election duly  
43 called and held under the Constitution and laws of the state to authorize the issuance and sale of

44 the municipality's general obligation bonds for public improvement purposes, the call for the  
45 election shall state that the governing body of the municipality proposes to impose rates, fees and  
46 charges in specified amounts under this section for the use of one or more of the services  
47 specified in subsection (a) of this section, which shall be related to the public improvement  
48 proposed to be made with the proceeds of the bonds, no notice, publication of notice, or  
49 referendum or election or other condition or prerequisite to the imposition of the rates, fees and  
50 charges shall be required or necessary other than the legal requirements for issuance and sale  
51 of the general obligation bonds.

52 (i) (1) A user fee imposed under this section may not:

53 (A) Require an employer or other third party to withhold the fee from compensation due  
54 an employee; and

55 (B) Be imposed on a state officer or an employee of the state because of their employment  
56 status with the state, unless their status as a user is not incidental to their status as a state officer  
57 or an employee of the state.

58 (2) Neither the State Auditor nor any state employing unit may withhold from compensation  
59 due a state employee or officer 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 officers and 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.