

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4027

FISCAL
NOTE

BY DELEGATE STEELE

[Introduced January 08, 2020; 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 providing that a municipal services user fee may not be imposed on employees of the
3 state because of their employment status.

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~~ may 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 be imposed on an employee of the
53 state because of their employment status with the state.

54 (2) Neither the State Auditor nor any state employing unit may withhold from compensation
55 due a state employee 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 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.