

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

House Bill 2953

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LINVILLE, HOTT, D. JEFFRIES, GRAVES, TULLY, STORCH
AND FORSHT

[Introduced March 05, 2021; referred to the
Committee on Fire Departments and Emergency
Medical Services then the Judiciary]

1 A BILL to amend and reenact §7-17-3 and §7-17-12 of the Code of West Virginia, 1931, as
2 amended, all relating to clarifying that counties may hire firefighters as paid staff;
3 delineating that a county commission may contract with the fire department of any political
4 subdivision for fire protection services; and, modifying the existing procedures for
5 amending fire fees to add a procedure for a referendum to take place without the current
6 threshold requiring 10 percent of voters petitioning for such referendum.

Be it enacted by the Legislature of West Virginia:

ARTICLE 17. COUNTY FIRE BOARDS.

**§7-17-3. County fire association creation; prohibiting entrance by a municipality
maintaining a full time paid fire department.**

1 The fire departments within each county are hereby authorized to create and establish a
2 county fire association, hereinafter referred to as "fire association." The county fire association is
3 created to discuss fire protection services to address fire protection problems at the county level.

4 Upon the creation of a fire association, any full-time paid fire department located in a
5 municipality, as defined in §8-15-9 of this code is excluded from the provisions of this article.

6 However, this provision shall not prohibit the county commission or the fire board with the
7 approval of the county commission from contracting with ~~any municipal~~ the fire department of any
8 political subdivision for fire protection services rendered to the county.

§7-17-12. County fire service fees; petition; election; dedication; and increase 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 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) ~~However, before a~~ A county commission can impose by ordinance, upon the users of
9 such service, a reasonable fire service fee, ~~ten~~ 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
16 in which the county fire board is located. In the event 30 percent of the qualified voters of the
17 county by petition duly signed by them in their own handwriting and filed with the clerk of the
18 county commission within 45 days after the expiration of such publication protest against such
19 ordinance as enacted or amended, the ordinance may not become effective until it is ratified by a
20 majority of the legal votes cast thereon by the qualified voters of such county at any primary,
21 general or special election as the county commission directs. Voting thereon may not take place
22 until after notice of the submission has been given by publication as above provided for the
23 publication of the ordinance after it is adopted. The powers and authority hereby granted to county
24 commissions are in addition to and supplemental to the powers and authority otherwise granted
25 to them by other provisions of this code; or

26 (2) If the county fire board determines an amendment in the fee imposed in subsection (a)
27 of this article is necessary, it may, by resolution, request the county commission for such a
28 change. Upon receipt of the resolution from the county fire board, the county commission shall,
29 by ballot referendum, amend the ordinance imposing a fire fee and adopt the changes in the fee
30 requested by the county fire board.

31 (A) This referendum, to determine whether it is the will of the voters of a county that an
32 amendment to the fire fee is necessary, may be held at any regular primary or general election,
33 or, in conjunction with any other countywide election. Any election at which the question of

34 amending the fire fee is voted upon shall be held at the voting precincts established for holding
35 primary or general elections. All of the provisions of the election laws, when not in conflict with
36 the provisions of this article, shall apply to voting and elections hereunder, insofar as practicable.
37 The county commission shall, not less than 90 days before the election, order that the issue be
38 placed on the ballot and referendum held at the next primary, general, or special election to
39 determine whether it is the will of the voters of the county that a fire fee be amended.

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

42 “Shall the county commission be permitted to amend the fire fee in _____ County,
43 West Virginia?

44 ___ For the fee amendment.

45 ___ Against the fee amendment.

46 (Place a cross mark in the square opposite your choice.)”

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

NOTE: The purpose of this bill is to clarify that counties can hire firefighters as paid staff and to modify the existing procedures to include a referendum procedure by a county commission, as it relates to amending fire fees for counties.

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