

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2256

FISCAL
NOTE

BY DELEGATES STEELE, HANNA AND FOSTER

[Introduced February 10, 2021; 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
9 the 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
12 the 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 90 days from the date the notice
22 is mailed. The administrative procedure must include the right to appeal to the circuit court of the
23 county in which the real property is located. The circuit court shall consider the appeal under its
24 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 30 percent of the qualified voters of the municipality, by petition duly signed
30 by them in their own handwriting and filed with the recorder of the municipality within 45 days after
31 the expiration of the publication, protest against the ordinance as enacted or amended, the
32 ordinance shall not become effective until it is ratified by a majority of the legal votes cast by the
33 qualified voters of the municipality at a regular municipal election or special municipal election, as
34 the governing body directs. Voting shall not take place until after notice of the submission is given
35 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
40 provided in this section are imposed by the governing body of a municipality for the purpose of
41 replacing, and in amounts approximately sufficient to replace in its general fund amounts
42 appropriated to be paid from ad valorem taxes upon property within the municipality, pursuant to
43 an election duly called and held under the Constitution and laws of the state to authorize the
44 issuance and sale of the municipality's general obligation bonds for public improvement purposes,
45 the call for the election shall state that the governing body of the municipality proposes to impose
46 rates, fees, and charges in specified amounts under this section for the use of one or more of the

47 services specified in subsection (a) of this section, which shall be related to the public
48 improvement proposed to be made with the proceeds of the bonds, no notice, publication of
49 notice, or referendum or election or other condition or prerequisite to the imposition of the rates,
50 fees and charges shall be required or necessary other than the legal requirements for issuance
51 and sale 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.