

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **House Bill 4691**

BY DELEGATE CAPITO

[BY REQUEST OF THE PUBLIC SERVICE COMMISSION]

[Introduced February 15, 2022; Referred to the Committee  
on Government Organization]

1 A BILL to amend and reenact §8-11-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to providing for a 45 day waiting period before a water and/or sewer rate increase may go  
 3 into effect for any locally rate regulated municipality.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 11. POWERS AND DUTIES WITH RESPECT TO ORDINANCES AND  
 ORDINANCE PROCEDURES.**

**§8-11-4. Ordinance procedures.**

1 (a) Notwithstanding any charter provision to the contrary, which charter provision was in  
 2 effect on the effective date of this section, it ~~shall not be~~ is not necessary, except where otherwise  
 3 provided in this code, for the governing body of any municipality to publish in a newspaper any  
 4 proposed ordinance prior to the adoption thereof or any enacted ordinance subsequent to the  
 5 adoption thereof, and any and all ordinances of every municipality shall be adopted in accordance  
 6 with the following requirements, except where different or additional requirements are specified  
 7 in other provisions of this code, in which event such other different or additional requirements  
 8 ~~shall be~~ are applicable:

9 (1) A proposed ordinance shall be read by title at not less than two meetings of the  
 10 governing body with at least one week intervening between each meeting, unless a member of  
 11 the governing body demands that the ordinance be read in full at one or both meetings. If ~~such~~  
 12 the demand is made, the ordinance shall be read in full as demanded.

13 (2) At least five days before the meeting at which a proposed ordinance, the principal  
 14 object of which is the raising of revenue for the municipality, is to be finally adopted, the governing  
 15 body shall cause notice of the proposed adoption of said proposed ordinance to be published as  
 16 a Class I-0 legal advertisement in compliance with ~~the provisions of~~ §59-3-1 *et seq.* of this code,  
 17 and the publication area for such publication shall be the municipality. The notice shall state the  
 18 subject matter and general title or titles of such proposed ordinance, the date, time, and place of

19 the proposed final vote on adoption, and the place or places within the municipality where ~~such~~  
20 the proposed ordinance may be inspected by the public. A reasonable number of copies of the  
21 proposed ordinance shall be kept at such place or places and be made available for public  
22 inspection. ~~Said~~ The notice shall also advise that interested parties may appear at the meeting  
23 and be heard with respect to the proposed ordinance.

24 (3) A proposed ordinance ~~shall~~ may not be materially amended at the same meeting at  
25 which finally adopted. A proposed ordinance to increase water and/or sewer service rates shall  
26 contain language that (i) the rate increase may not be effective until 45 days following the passage  
27 of the ordinance, and (ii) the rate increase shall take effect for service rendered on or after the  
28 effective date.

29 (b) Notwithstanding any charter provision to the contrary, which charter provision was in  
30 effect on the effective date of this section, the governing body of any municipality may adopt, by  
31 ordinance, building codes, housing codes, plumbing codes, sanitary codes, electrical codes, fire  
32 prevention codes, or any other technical codes dealing with general public health, safety or  
33 welfare, or a combination of the same, or a comprehensive code of ordinances, in the manner  
34 prescribed in this subsection ~~(b)~~. Before any such ordinance shall be adopted, the code shall be  
35 either printed or typewritten and shall be presented in pamphlet form to the governing body of the  
36 municipality at a regular meeting, and copies of ~~such~~ the code shall be made available for public  
37 inspection. The ordinance adopting ~~such~~ the code ~~shall~~ may not set out said code in full, but shall  
38 merely identify the same. The vote on adoption of said ordinance shall be the same as on any  
39 other ordinance. After adoption of the ordinance, ~~such~~ the code or codes shall be certified by the  
40 mayor and shall be filed as a permanent record in the office of the recorder, who ~~shall~~ may not be  
41 required to transcribe and record the same in the ordinance book as other ordinances are  
42 transcribed and recorded. Consistent with the provisions of subsection (a) of this section, it ~~shall~~  
43 may-not be necessary that any such ordinance, either as proposed or after adoption, be published  
44 in any newspaper, and it ~~shall~~ may not be necessary that the code itself be so published, but

45 before final adoption of any such proposed ordinance, notice of the proposed adoption of ~~such~~  
46 the ordinance and code shall be given by publication as herein provided for ordinances the  
47 principal object of which is the raising of revenue for the municipality, which notice shall also state  
48 where, within the municipality, the code or codes will be available for public inspection.

49 (c) By a charter framed and adopted, revision of a charter as a whole, or a charter  
50 amendment or amendments, as the case may be, subsequent to the effective date of this section,  
51 a city may require any or all ordinances to be published in a newspaper prior to the adoption  
52 thereof, may expressly adopt the provisions of this section, may specify other additional  
53 requirements for the enactment of ordinances, or may prescribe a procedure for the enactment  
54 of ordinances in greater detail than prescribed in this section, but a city ~~shall~~ may not, except in  
55 an emergency as specified in subsection (d) of this section or except as otherwise provided in  
56 this code, have the power and authority to lessen or reduce the requirements of this section.

57 (d) The governing body of a municipality may enact an ordinance without complying with  
58 the rules prescribed in this section only (1) in the case of a pressing public emergency making  
59 procedure in accordance with the provisions of this section dangerous to the public health, safety  
60 or morals, and by affirmative vote of two thirds of the members elected to the governing body, or  
61 (2) when otherwise provided in this code. The nature of any such emergency shall be set out in  
62 full in the ordinance.

NOTE: The purpose of this bill is to amend 8-11-4 to provide a 45 day waiting period before rates go into effect to allow utilities purchasing water and/or sewer services from the municipality adequate time to seek rate increases to cover the increased cost of purchasing the water and sewer services from the municipality.

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