

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 631

By Senators Barrett and Martin

[Introduced February 5, 2024; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §16-13-16 of the Code of West Virginia, 1931, as amended, relating
 2 to prohibiting municipalities from shutting off a user's water for nonpayment of stormwater
 3 fees; and allowing for municipalities to impose a lien to obtain payment without shutting off,
 4 or disconnecting, service.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. SEWAGE WORKS AND STORMWATER WORKS.

§16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit; reconnecting deposit; tenant's deposit; change or readjustment; hearing; lien and recovery; discontinuance of services.

1 A governing body has the power and duty, by ordinance, to establish and maintain just and
 2 equitable rates, fees, or charges for the use of and the service rendered by:

3 (a) Sewerage works, to be paid by the owner of each lot, parcel of real estate or building
 4 that is connected with and uses the works by or through any part of the sewerage system of the
 5 municipality or that in any way uses or is served by the works; and

6 (b) Stormwater works, to be paid by the owner of each lot, parcel of real estate or building
 7 that in any way uses or is served by the stormwater works or whose property is improved or
 8 protected by the stormwater works or any user of such stormwater works.

9 (c) The governing body may change and readjust the rates, fees, or charges from time to
 10 time. However, no rates, fees, or charges for stormwater services may be assessed against
 11 highways, road and drainage easements or stormwater facilities constructed, owned or operated
 12 by the West Virginia Division of Highways.

13 (d) All new applicants for service shall indicate to the governing body whether they are an
 14 owner or tenant with respect to the service location. An entity providing stormwater service shall
 15 provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate,
 16 that portion of the fee to be assessed to the tenant.

17 (e) (1) The governing body may collect from all new applicants for service a deposit of \$50
18 or two twelfths of the average annual usage of the applicant's specific customer class, whichever
19 is greater, to secure the payment of service rates, fees, and charges in the event they become
20 delinquent as provided in this section. In any case where a deposit is forfeited to pay service rates,
21 fees, and charges which were delinquent at the time of disconnection or termination of service,
22 service may not be reconnected or reinstated by the governing body until another deposit equal to
23 \$50 or a sum equal to two twelfths of the average usage for the applicant's specific customer
24 class, whichever is greater, is remitted to the governing body. After 12 months of prompt payment
25 history, the governing body shall return the deposit to the customer or credit the customer's
26 account with interest at a rate as the Public Service Commission may prescribe: *Provided*, That
27 where the customer is a tenant, the governing body is not required to return the deposit until the
28 time the tenant discontinues service with the governing body Whenever any rates, fees, rentals, or
29 charges for services or facilities furnished remain unpaid for a period of 20 days after they become
30 due, the user of the services and facilities provided is delinquent. The user is liable until all rates,
31 fees, and charges are fully paid. The governing body may, under reasonable rules promulgated by
32 the Public Service Commission, shut off and discontinue water services to a delinquent user of
33 sewer facilities 10 days after the sewer services become delinquent regardless of whether the
34 governing body utilizes the security deposit to satisfy any delinquent payments: *Provided*,
35 *however*, That nothing contained within the rules of the Public Service Commission may require
36 agents or employees of the governing body to accept payment at the customer's premises in lieu
37 of discontinuing service for a delinquent bill.

38 (2) The water service for a user may not be shut off or discontinued for the nonpayment of a
39 stormwater fee, but the governing body may impose a lien pursuant to subsection (k) of this
40 section.

41 (f) The rates, fees, or charges shall be sufficient in each year for the payment of the proper
42 and reasonable expense of operation, repair, replacements and maintenance of the works and for

43 the payment of the sums herein required to be paid into the sinking fund. Revenues collected
44 pursuant to this section shall be considered the revenues of the works.

45 (g) No such rates, fees, or charges may be established until after a public hearing, at which
46 all the users of the works and owners of property served or to be served thereby and others
47 interested shall have an opportunity to be heard concerning the proposed rates, fees or charges.

48 (h) After introduction of the ordinance fixing the rates, fees or charges, and before the
49 same is finally enacted, notice of the hearing, setting forth the proposed schedule of rates, fees or
50 charges, shall be given by publication as a Class I legal advertisement in compliance with §59-3-1
51 *et seq.* of this code and the publication area for the publication shall be the municipality. The first
52 publication shall be made at least five days before the date fixed in the notice for the hearing.

53 (i) After the hearing, which may be adjourned, from time to time, the ordinance establishing
54 rates, fees or charges, either as originally introduced or as modified and amended, shall be
55 passed and put into effect. A copy of the schedule of the rates, fees, and charges shall be kept on
56 file in the office of the board having charge of the operation of the works, and also in the office of
57 the clerk of the municipality, and shall be open to inspection by all parties interested. The rates,
58 fees, or charges established for any class of users or property served shall be extended to cover
59 any additional premises thereafter served which fall within the same class, without the necessity of
60 any hearing or notice.

61 (j) Any change or readjustment of the rates, fees, or charges may be made in the same
62 manner as the rates, fees, or charges were originally established as hereinbefore provided:
63 *Provided,* That if a change or readjustment be made substantially pro rata, as to all classes of
64 service, no hearing or notice shall be required. The aggregate of the rates, fees, or charges shall
65 always be sufficient for the expense of operation, repair and maintenance and for the sinking fund
66 payments.

67 (k) All rates, fees, or charges, if not paid when due, shall constitute a lien upon the
68 premises served by the works. If any service rate, fee, or charge is not paid within 20 days after it is

69 due, the amount thereof, together with a penalty of 10 percent and a reasonable attorney's fee,
70 may be recovered by the board in a civil action in the name of the municipality. The lien may be
71 foreclosed against the lot, parcel of land or building in accordance with the laws relating thereto.
72 Where both water and sewer services are furnished by any municipality to any premises, the
73 schedule of charges may be billed as a single amount or individually itemized and billed for the
74 aggregate thereof.

75 (l) Whenever any rates, rentals, fees or charges for services or facilities furnished shall
76 remain unpaid for a period of 20 days after they become due, the property and the owner thereof,
77 as well as the user of the services and facilities shall be delinquent until such time as all rates, fees,
78 and charges are fully paid. When any payment for rates, rentals, fees or charges becomes
79 delinquent, the governing body may use the security deposit to satisfy the delinquent payment.

80 (m) The board collecting the rates, fees, or charges shall be obligated under reasonable
81 rules to shut off and discontinue both water and sewer services to all delinquent users of water,
82 sewer or stormwater facilities and shall not restore either water facilities or sewer facilities to any
83 delinquent user of any such facilities until all delinquent rates, fees, or charges for water, sewer,
84 and stormwater facilities, including reasonable interest and penalty charges, have been paid in
85 full, as long as the actions are not contrary to any rules or orders of the Public Service
86 Commission: *Provided*, That nothing contained within the rules of the Public Service Commission
87 may be considered to require any agents or employees of the municipality or governing body to
88 accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill:
89 *Provided, however*, That nonpayment of a stormwater fee is not grounds to shut off or discontinue
90 water services to a user.

NOTE: The purpose of this bill is to prohibit municipalities from shutting off a user's water for nonpayment of a stormwater fee. The bill allows for municipalities to impose a lien to obtain payment but prohibits municipalities from shutting off services for nonpayment.

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