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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Committee Substitute for
SENATE BILL NO. 211

(By Senator MAUCHIN, ET AL)



PASSED MARCH 9, 1995
In Effect JULY 1, 1995 Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 211

(SENATORS MANCHIN, HELMICK, KIMBLE AND
WALKER, *original sponsors*)

[Passed March 9, 1995; to take effect July 1, 1995.]

AN ACT to amend and reenact section seven, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article thirteen, chapter eight of said code by adding thereto a new section, designated section twenty-two-c, all relating to the "Prompt Pay Act of 1995"; requiring counties, municipalities and their agencies to pay for purchases of services and commodities within sixty days; exception; requiring payment of interest in event of late payment; specifying effective date of said requirements; specifying method of calculating interest; requiring amount of interest to be deducted from account of agency responsible for late payment; and requiring processing of invoices and requisitions within certain time periods.

Be it enacted by the Legislature of West Virginia:

That section seven, article five, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article thirteen, chapter eight of said code be amended by adding thereto a new section, designated section twenty-two-c, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 5. FISCAL AFFAIRS.

§7-5-7. Payment of legitimate uncontested invoices; interest on late payments; "Prompt Pay Act of 1995".

1 (a) Any properly registered and qualified vendor who
2 supplies services or commodities to any county, or
3 agency thereof, shall be entitled to prompt payment upon
4 presentation to that county or agency of a legitimate
5 uncontested invoice.

6 (b) (1) Except as provided in subdivision (2) of this
7 subsection, for purchases of services or commodities
8 made on or after the first day of July, one thousand nine
9 hundred ninety-five, a check shall be issued in payment
10 thereof within sixty days after a legitimate uncontested
11 invoice is received by the county or agency receiving the
12 services or commodities. Any check issued after such
13 sixty days shall include interest at the current rate, as
14 determined by the state tax commissioner under the
15 provisions of section seventeen-a, article ten, chapter
16 eleven of this code, which interest shall be calculated
17 from the sixty-first day after the invoice was received by
18 the county or agency until the date on which the check
19 is mailed to the vendor: *Provided*, That this section shall
20 not apply if payment cannot be made within the sixty-
21 day period because of unforeseen budgetary constraints.

22 (2) For purposes of this subsection, an invoice shall be
23 deemed to be received by a county, or agency thereof, on
24 the date on which the invoice is marked as received by
25 the county or agency, or the date of the postmark made
26 by the United States postal service as evidenced on the

27 envelope in which the invoice is mailed, whichever is
28 earlier, unless the vendor can provide sufficient evidence
29 that the invoice was received by the county or agency on
30 an earlier date: *Provided*, That in the event an invoice is
31 received by a county, or agency thereof, prior to the date
32 on which the commodities or services covered by the
33 invoice are delivered and accepted or fully performed
34 and accepted, the invoice shall be deemed to be received
35 on the date on which the commodities or services cov-
36 ered by the invoice were actually delivered and accepted
37 or fully performed and accepted.

38 (c) The sheriff shall deduct the amount of any interest
39 due for late payment of an invoice from any appropriate
40 account of the agency responsible for the late payment:
41 *Provided*, That if two or more agencies are responsible
42 for the late payment the sheriff shall deduct the amount
43 of interest due on a pro rata basis.

44 (d) The county or agency initially receiving a legitimate
45 uncontested invoice shall process the invoice for pay-
46 ment within ten days from its receipt. Failure to comply
47 with the requirements of this subsection shall render the
48 county or agency liable for payment of the interest
49 mandated by this section when there is a failure to
50 promptly pay a legitimate uncontested invoice: *Pro-*
51 *vided*, That a county agency shall not be liable for
52 payment of interest owed by another county agency
53 under this section.

54 (e) Any other county agency charged by law with
55 processing a county agency's requisition for payment of
56 a legitimate uncontested invoice shall either process the
57 claim or reject it for good cause within ten days after the
58 agency receives it. Failure to comply with the require-
59 ments of this subsection shall render the county agency
60 liable for payment of the interest mandated by this
61 section when there is a failure to promptly pay a legiti-
62 mate uncontested invoice: *Provided*, That a county
63 agency shall not be liable for payment of interest owed

64 by another county agency under this section.

65 (f) For purposes of this section, the term "agency"
66 means any agency, department, board, office, bureau,
67 commission, authority or any other entity of county
68 government.

69 (g) This section may be cited as the "Prompt Pay Act of
70 1995".

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 13. TAXATION AND FINANCE.

§8-13-22c. Payment of legitimate uncontested invoices; interest on late payments; "Prompt Pay Act of 1995".

1 (a) Any properly registered and qualified vendor who
2 supplies services or commodities to any municipality or
3 agency thereof, shall be entitled to prompt payment upon
4 presentation to that municipality or agency of a legiti-
5 mate uncontested invoice.

6 (b) (1) Except as provided in subdivision (2) of this
7 subsection, for purchases of services or commodities
8 made on or after the first day of July, one thousand nine
9 hundred ninety-five, a check shall be issued in payment
10 thereof within sixty days after a legitimate uncontested
11 invoice is received by the municipality or agency receiv-
12 ing the services or commodities. Any check issued after
13 the sixty days shall include interest at the current rate,
14 as determined by the state tax commissioner under the
15 provisions of section seventeen-a, article ten, chapter
16 eleven of this code, which interest shall be calculated
17 from the sixty-first day after the invoice was received by
18 the municipality or agency until the date on which the
19 check is mailed to the vendor: *Provided*, That this
20 section shall not apply if payment cannot be made within
21 the sixty day period because of unforeseen budgetary
22 constraints.

23 (2) For purposes of this subsection, an invoice shall be

24 deemed to be received by a municipality or agency on the
25 date on which the invoice is marked as received by the
26 municipality or agency, or the date of the postmark made
27 by the United States postal service as evidenced on the
28 envelope in which the invoice is mailed, whichever is
29 earlier, unless the vendor can provide sufficient evidence
30 that the invoice was received by the municipality or
31 agency on an earlier date: *Provided*, That in the event an
32 invoice is received by a municipality or agency prior to
33 the date on which the commodities or services covered
34 by the invoice are delivered and accepted or fully
35 performed and accepted, the invoice shall be deemed to
36 be received on the date on which the commodities or
37 services covered by the invoice were actually delivered
38 and accepted or fully performed and accepted.

39 (c) The municipal treasurer shall deduct the amount of
40 any interest due for late payment of an invoice from any
41 appropriate account of the agency responsible for the
42 late payment: *Provided*, That if two or more agencies are
43 responsible for the late payment the municipal treasurer
44 shall deduct the amount of interest due on a pro rata
45 basis.

46 (d) The municipality or agency initially receiving a
47 legitimate uncontested invoice shall process the invoice
48 for payment within ten days from its receipt. Failure to
49 comply with the requirements of this subsection shall
50 render the municipality or agency liable for payment of
51 the interest mandated by this section when there is a
52 failure to promptly pay a legitimate uncontested invoice:
53 *Provided*, That a municipality or agency shall not be
54 liable for payment of interest owed by another state
55 agency under this section.

56 (e) Any other municipality or agency charged by law
57 with processing a municipal agency's requisition for
58 payment of a legitimate uncontested invoice shall either
59 process the claim or reject it for good cause within ten
60 days after such municipality or agency receives it.

61 Failure to comply with the requirements of this subsec-
62 tion shall render the municipal agency liable for pay-
63 ment of the interest mandated by this section when there
64 is a failure to promptly pay a legitimate uncontested
65 invoice: *Provided*, That a municipal agency shall not be
66 liable for payment of interest owed by another municipal
67 agency under this section.

68 (f) For purposes of this section, the phrase "municipal
69 agency" means any agency, department, board, office,
70 bureau, commission, authority or any other entity of a
71 municipal corporation.

72 (g) This section may be cited as the "Prompt Pay Act of
73 1995".

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Ruby DeBoer
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1995.

Darrell H. White
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Paul Abner
.....
Speaker House of Delegates

The within *is approved* this the *25th*.....

day of *March*....., 1995.

Gaston Caperton
.....
Governor

PRESENTED TO . . .

GOVERNOR

Date 3/16/95

Time 10:31 am