WEST VIRGINIA CODE: §17-28-5

§17-28-5. Powers conferred on counties; special charges for transportation facilities and projects; election on ordinance for user fees; form of ballots; procedure.

(a) In addition to any other powers which a county may now have, each county, by and through its county commission, shall have the following powers:

(1) To finance one or more transportation projects, or additions thereto, which shall be located within the county;

(2) To impose by ordinance reasonable user fees upon users of transportation facilities within a county to be collected in the manner specified in the ordinance, including, but not limited to, paying the costs of one or more transportation projects, the payment of debt service on any revenue bonds issued under section six of this article. The ordinance shall provide for the administration, collection and enforcement of the fee; and

(3) To establish a special transportation fund as a separate fund into which all user fees and other revenues designated by the county commission shall be deposited, and from which all transportation project costs shall be paid, which may be assigned to and held by a trustee for the benefit of bondholders if special transportation revenue bonds are issued by the county commission under section six of this article.

(b) No ordinance imposing a user fee authorized by this section is effective until it is ratified by a majority of the legal votes cast by the qualified voters of the county at a primary or general election. The ballot question must set forth the amount of the fee, the manner in which it will be imposed, the general use to which the proceeds of the fee will be put, a description of the transportation project to be financed with the fee, whether revenue bonds will be issued, and if bonds are to be issued, the estimated term and amount of the revenue bonds. The county commission may include additional information in the notice. Notice of the election shall be provided and the ballots shall be printed as set forth in subsection (c) of this section.

(c) On the election ballots shall be printed the following:

Shall the County Commission of (name of county) be authorized to adopt an ordinance to establish a fee for the use of the (transportation facility description) in accordance with section five, article twenty-eight, chapter seventeen of the code of West Virginia?

Yes

No

(d) If a majority of the legal votes cast upon the question be for the ordinance, the provisions of the ordinance become effective upon the date the results of the election are declared. If a

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majority of the legal votes cast upon the question be against the ordinance, the ordinance shall not take effect.

(e) Subject to the provisions of subsection (d) of this section, an election permitted by this section may be conducted at any regular primary or general election as the county commission in its order submitting the same to a vote may designate.

(f) Notice of an election pursuant to this section shall be given by publication of the order calling for a vote on the question as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication shall be the county in which the election is to be conducted.

(g) Any election permitted by this section shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws of this state applicable to primary or general elections not inconsistent with the provisions of this section shall apply to voting and elections authorized by this section.

(h) Before an election is held, the county commission shall obtain written confirmation from the commissioner approving the user fee and a transportation project plan within the county that was reviewed by commissioner under section four of this article.

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