WEST VIRGINIA CODE CHAPTER 8 ARTICLE 13

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PART I. POWERS OF TAXATION.

§8-13-1. General property and benefit taxes.

Every municipality shall have plenary power and authority:

(1) To levy and collect taxes on real and personal property for any municipal purpose within the limitations and subject to the classifications prescribed by the Constitution and the general law of this state; and the assessment, levy and collection of such taxes shall be governed by the provisions of chapters eleven and eleven-a of this code; and

(2) To finance public improvements by the levy and collection of special assessments or other benefit taxes in the manner and to the extent permitted by article eighteen of this chapter and by any other general law. The entire cost of sidewalk construction, including curbing, may be imposed upon the owners of abutting property and made a lien thereon which shall have priority over all other liens except tax liens.

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§8-13-2. Correcting erroneous tax levy.

Upon the petition of interested persons, as provided in chapter eleven of this code for superseding levies, the circuit court of the county in which the municipality or the major portion of the territory thereof is located may supersede a levy made by such municipality, in the same manner, and to the same effect, as provided in said chapter. The court, if it deem proper to do so, may require security for costs.

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§8-13-3. Hotel occupancy tax.

Each Class I city shall have plenary power and authority to levy and collect an excise tax upon the occupancy of hotel rooms within the corporate limits of such city; but the rate of such tax shall not exceed three percent of the cost of the hotel room or rooms. The tax shall be levied on the person paying the consideration for the occupancy of the hotel room and shall be collected by the hotel as part of the consideration paid for the use of the hotel room. The tax shall not be levied on any person paying the consideration for the occupancy of a hotel room for ninety or more consecutive days.

For the purpose of this section and any ordinance enacted pursuant thereto, the term "hotel" means any building or buildings in which the public may, for a consideration, obtain sleeping accommodations, including, but not limited to, hotels, motels, inns or courts. The term "hotel" shall not be construed to mean any hospital, sanitarium, extended care facility, nursing home or university or college housing unit.

All revenues collected by a Class I city from any such hotel occupancy tax shall be deposited in the General Revenue Fund of such city and expended for the following purposes and none other: (1) Planning, construction, reconstruction, establishment, acquisition, improvement, renovation, extension, enlargement, equipment, maintenance, repair and operation of convention facilities including, but not limited to, arenas, Auditoriums, civic centers and convention centers; (2) the payment of principal or interest or both on municipal bonds issued pursuant to the provisions of article sixteen of this chapter, the proceeds from the sale of which were used to finance convention facilities; (3) the promotion of conventions; or any combination of the foregoing.

The ordinance of any Class I city imposing any such hotel occupancy tax shall (1) specify the minimum number of hotel rooms which a hotel must have in order for the occupancy of such hotel to be subject to the tax herein authorized; (2) specify the rate of tax, which shall not exceed three percent of the cost of the hotel room or rooms; (3) provide the manner in which the occupancy tax shall be collected and remitted to such Class I city; and (4) provide such other provisions as are necessary for the proper administration and enforcement of the tax.

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§8-13-4. Municipal license and tax thereon when state license required.

(a) Whenever anything, for which a state license is required, is to be done within the corporate limits of any municipality, the governing body shall have plenary power and authority, unless prohibited by general law, to require a municipal license and for the use of the municipality to impose a reasonable tax which may not exceed the amount of the state license tax. Upon proper application for a municipal license and payment of the prescribed reasonable tax by any person who has a valid and subsisting state license, the municipal license shall be issued.

(b) Except where a business license tax or fee has been established by the West Virginia Code, the governing body of a municipality may, in lieu of the provisions of subsection (a), enact an ordinance creating an annual general municipal business license for anything which requires a state license that is done within the corporate limits of a municipality, the tax for which may not exceed 20 dollars.

(c) Notwithstanding any other provision of law to the contrary, no municipal license shall be required for an independent contractor or sole proprietor who earns less than $2,500 in annual gross revenue and who does not maintain a permanent physical location within the municipality’s city limits.

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§8-13-5. Business and occupation or privilege tax; limitation on rates; effective date of tax; exemptions; activity in two or more municipalities; administrative provisions; electronic data processing system to facilitate the filing and collection of municipal business and occupation or privilege taxes.

(a) Authorization to impose tax. — (1) Whenever any business activity or occupation, for which the state imposed its annual business and occupation or privilege tax under §11-13-1 *et seq*. of this code, prior to July 1, 1987, is engaged in or carried on within the corporate limits of any municipality, the governing body thereof shall have plenary power and authority, unless prohibited by general law, to impose a similar business and occupation tax thereon for the use of the municipality.

(2) Municipalities may impose a business and occupation or privilege tax upon every person engaging or continuing within the municipality in the business of aircraft repair, remodeling, maintenance, modification, and refurbishing services to any aircraft, or to an engine or other component part of any aircraft as a separate business activity.

(b) Maximum tax rates. — In no case shall the rate of the municipal business and occupation or privilege tax on a particular activity exceed the maximum rate imposed by the state, exclusive of surtaxes, upon any business activities or privileges taxed under §11-13-2a, §11-13-2b, §11-13-2c, §11-13-2d, §11-13-2e, §11-13-2g, §11-13-2h, §11-13-2i, and §11-13-2j of this code, as those rates were in effect under §11-13-1 *et seq*. of this code, on January 1, 1959, or in excess of one percent of gross income under §11-13-2k of this code, or in excess of three-tenths of one percent of gross value or gross proceeds of sale under §11-13-2m of this code. The rate of municipal business and occupation or privilege tax on the activity described in subdivision (2), subsection (a) of this section shall be ten one-hundredths of one percent. The rate of municipal business and occupation or privilege tax on the activity of a health maintenance organization holding a certificate of authority under the provisions of §33-25A-1 *et seq*. of this code, shall not exceed one-half of one percent to be applied solely to that portion of gross income received from the Medicaid program pursuant to Title XIX of the Social Security Act, the state employee programs administered by the Public Employees Insurance Agency pursuant to §5-16-1 *et seq*. of this code, and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization, that is expended for administrative expenses; and shall not exceed one half of one percent to be applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, state employee programs administered by the Public Employees Insurance Agency, and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization: *Provided*, That this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any company maintains its office or offices in this state, whether the income is in the form of rentals or royalties. This provision concerning the maximum municipal business and occupation tax rate on the activities of health maintenance organizations is effective beginning after December 31, 1996. Any payments of business and

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occupation tax made by a health maintenance organization to a municipality for calendar year 1997 is not subject to recovery by the health maintenance organization. Administrative expenses shall include all expenditures made by a health maintenance organization other than expenses paid for claims incurred or payments made to providers for the benefits received by enrollees.

(c) Effective date of local tax. — Any taxes levied pursuant to the authority of this section may be made operative as of the first day of the then current fiscal year or any date thereafter: *Provided*, That any new imposition of tax or any increase in the rate of tax upon any business, occupation or privilege taxed under §11-13-2e of this code, applies only to gross income derived from contracts entered into after the effective date of the imposition of tax or rate increase, and which effective date shall not be retroactive in any respect: *Provided, however*, That no tax imposed or revised under this section upon public utility services may be effective unless and until the municipality provides written notice of the same by certified mail to said public utility at least 60 days prior to the effective date of said tax or revision thereof.

(d) Exemptions. —

(1) A municipality shall not impose its business and occupation or privilege tax on any activity that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, and determined without regard to any annual or monthly monetary exemption also specified therein: *Provided*, That on and after July 1, 2007, a municipality may impose its business and occupation or privilege tax on any activity of a corporation, association, or society organized and operated exclusively for religious or charitable purposes that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, but only to the extent that the income generated by the activity is subject to taxation under the provisions of §511 of the Internal Revenue Code of 1986, as amended.

(2) Effective July 1, 2023, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by 50 percent of the total amount of the tax: *Provided*, That, effective July 1, 2024, the remaining municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by an additional 50 percent of the total amount of the tax: *Provided, however*, That July 1, 2025, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be completely eliminated. For the purposes of this section, an automobile is a self-propelled vehicle used on the roads and highways by the use of motor vehicle fuel or propelled by one or more electric motors using energy stored in batteries or a combination thereof. An automobile shall include a light-duty truck with an enclosed cabin and an open loading area at the rear and a sport utility vehicle. An automobile does not include a motorcycle.

(e) Activity in two or more municipalities. — Whenever the business activity or occupation of

the taxpayer is engaged in or carried on in two or more municipalities of this state, the amount of gross income, or gross proceeds of sales, taxable by each municipality shall be determined in accordance with legislative rules as prescribed by the Tax Commissioner. It is the intent of the Legislature that multiple taxation of the same gross income, or gross proceeds of sale, under the same classification by two or more municipalities shall not be allowed, and that gross income, or gross proceeds of sales, derived from activity engaged in or carried on within this state, that is presently subject to state tax under §11-13-2c or §11-13-2h of this code, which is not taxed or taxable by any other municipality of this state, may be included in the measure of tax for any municipality in this state, from which the activity was directed, or in the absence thereof, the municipality in this state in which the principal office of the taxpayer is located. Nothing in this subsection shall be construed as permitting any municipality to tax gross income or gross proceeds of sales in violation of the Constitution and laws of this state or the United States, or as permitting a municipality to tax any activity that has a definite situs outside its taxing jurisdiction.

(f) Where the governing body of a municipality imposes a tax authorized by this section, the governing body may offer tax credits from the tax as incentives for new and expanding businesses located within the corporate limits of the municipality.

(g) Administrative provisions. — The ordinance of a municipality imposing a business and occupation or privilege tax shall provide procedures for the assessment and collection of the tax, which shall be similar to those procedures in §11-13-1 *et seq*. of this code, as in existence on June 30, 1978, or to those procedures in §11-10-1 *et seq*. of this code, and shall conform with such provisions as they relate to waiver of penalties and additions to tax.

(h) Timely payment. — Payments for taxes due under this section that are postmarked or remitted via the system after the due date by which they are owed shall be considered late and may be subject to late fees or penalties: *Provided*, That payments that are received by the municipality after the due date, but that were postmarked or remitted via the system on or before the due date shall be considered to be on time and shall not be assessed any late fees or penalties.

(i) Any third-party vendors who contract with a city or municipality to collect business and occupation taxes authorized by this section on behalf of a municipality may not charge for their services more than 20% of the amount of taxes collected.

(j) Administration of Municipal Business and Occupation or Privilege Tax. —

(1) System Design and Authority. — The Tax Commissioner shall design and implement an electronic data processing system to facilitate the filing and collection of municipal business and occupation or privilege taxes. The Commissioner has broad authority to determine the technical architecture of the system and may enter into such contracts as necessary to develop or modify the system for these purposes. The Tax Commissioner's role under this subsection is limited to providing an optional administrative and processing platform; the participating municipality shall retain all legal authority to administer its local tax, including

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the authority to conduct audits, make assessments, and pursue the collection of delinquent taxes in accordance with the ordinances of municipality as authorized under §8-13-5 of this code.

(2) Administrative Fee and Funding. — To cover the costs of system development, maintenance, and ongoing administration, the Tax Commissioner shall retain an administrative fee of one percent (1%) of the gross collections for each participating municipality. All fees retained under this subdivision shall be deposited into the "Tax Administration Services Fund" provided for under §11-10-27 of this code.

(3) System Activation Threshold. — The Tax Commissioner's obligation to implement the system is contingent upon a sufficient number of municipalities committing to participation through local ordinance. The determination of whether the revenue threshold has been met shall be based on the total anticipated business and occupation tax revenue reflected on the most recent fiscal year budgets filed by the participating municipalities with the State Auditor pursuant to articles §11-8-1 *et seq*. and §6-9-1 *et seq*. of this code.

(4) Effective Date. — Once the Tax Commissioner determines that the committed municipalities represent an aggregate annual revenue exceeding $30,000,000, as verified by the budgets filed with the State Auditor, the system shall be implemented and become available for use on the July 1 following a period of at least 12 months from the date of such determination.

(5) Definitions. — As used in this subsection:

"Electronic data processing" means the use of computer systems for operations including the storing, retrieving, sorting, merging, calculating, and reporting of data for use in tax billing, accounting, and information sharing among municipalities and the Tax Commissioner.

"Municipal business and occupation or privilege tax" means and is limited to only those municipal taxes authorized under this section.

"System" means the electronic data processing system developed by the Tax Commissioner for the administration of municipal business and occupation or privilege taxes.

(6) Rulemaking. — The Tax Commissioner may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq*. of this code to establish the procedures for certifying the threshold, the timeline for municipal onboarding, and the requirements for the electronic exchange of data.

(k) The amendments to this section enacted during the 2026 regular legislative session, shall be known as the "Tax Efficiency Act of 2026".

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PART I. POWERS OF TAXATION

§8-13-5a. Public utilities tax.

Every municipality has the plenary power and authority to levy and collect an excise tax on the privilege of purchasing, using or consuming, within the corporate limits of the municipality, public utility services and tangible personal property from public utilities subject to the jurisdiction of the Public Service Commission of West Virginia. The tax is computed on the basis of an amount not to exceed two percent of the gross amount of each periodic statement rendered purchasers or consumers by public utilities: Provided, That sales of tangible personal property such as appliances or the like, as distinguished from the public service supplied, are not included in the gross amount subject to the measure of this tax: Provided, however, That this tax does not apply to sales of telecommunications services to another telecommunications provider for the purposes of access, interconnection or resale to consumers. Charges or fees for items on the periodic statement that are not public utility services, including surcharges for telecommunications relay services for the deaf or hard of hearing and fees for enhanced emergency telephone systems, are not included in the gross amount subject to the measure of this tax. The purchasers or consumers shall pay to the public utilities the amount of the tax levied pursuant to this section which is added to and constitutes a part of the cost of the service or property so purchased or consumed and is collectible as such by the public utilities who shall account to the municipality levying same for all tax paid by the purchasers or consumers pursuant to the provisions of any ordinance imposing the tax.

Any ordinance imposing the tax shall require the collection thereof uniformly from all purchasers and consumers of all the services and property within the corporate limits of the municipality and contain reasonable rules governing the collection thereof by the utilities and the method of its payment and accounting to the municipality: Provided, That the tax is not effective until the municipality gives 60 days written notice by certified mail to any utility doing business therein of the effective date of the ordinance. Any required separation of gross income shall occur in the ordinance whenever necessary to comply with state or federal law: Provided, however, That the tax authorized by this section may not be levied upon charges for telephone services which are paid by the insertion of coins into coin-operated telephones, and specific charges for telephone calls to points outside the taxing municipality: Provided further, That specific charges for telephone calls to points outside the taxing municipality is construed to mean separately itemized or bulk-billed charges for long distance telecommunications service to points outside the local exchange service area. The charges subject to the tax authorized by this section include local usage charges applicable to telephone calls originating within the corporate limits of the municipality which imposes the tax, regardless of where the calls terminate, and also include the federal subscriber line charge.

Notwithstanding any other provisions of the law to the contrary contained in the Code of West Virginia, 1931, as amended, the provisions of this section are in addition to all other

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taxing authority heretofore granted municipalities.

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§8-13-6. Amusement tax.

Every municipality shall have plenary power and authority to levy and collect an admission or amusement tax upon any public amusement or entertainment conducted within the corporate limits thereof for private profit or gain. The tax shall be levied upon the purchaser and added to and collected by the seller with the price of admission, or other charge for the amusement or entertainment. The tax shall not exceed two percent of the admission price or charge, but a tax of 1¢ may be levied and collected in any case.

Any ordinance imposing such tax shall contain reasonable rules and regulations governing the collection thereof by the seller and the method of his payment and accounting therefor to the municipality.

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§8-13-7. Tax on purchases of intoxicating liquors in municipalities; private club fees.

(a) (1) Every municipality shall have plenary power and authority to levy and collect a tax upon all purchases within such municipality of intoxicating liquors from the Alcohol Beverage Control Commissioner, from any person licensed to sell wine at retail to the public under the provisions of article eight, chapter sixty of this code, or from distributors licensed to sell or distribute wine pursuant to said article: Provided, That no municipality shall have authority to levy or collect any such tax on the intoxicating liquors sold by or purchased from holders of a license issued under the provisions of article seven, chapter sixty of this code: Provided, however, That no municipality shall have authority to levy or collect any such tax on purchases within such municipality of intoxicating liquors or wine in the original sealed package for the purpose of resale in the original sealed package if the final purchase of such intoxicating liquors or wine is subject to the tax imposed under this section, under section nine-d, article three, chapter sixty of this code, or under section twenty-one, article three-a of said chapter. This section shall not be interpreted to authorize a purchase for resale exemption in contravention of section nine-a, article fifteen, chapter eleven of this code. The tax shall be levied upon the purchaser and shall be added to and collected with the price of purchase. The tax shall not exceed five percent of the purchase price.

(2) A copy of any ordinance imposing the tax authorized by this section shall be certified by the mayor of the municipality to the West Virginia Alcohol Beverage Control Commissioner and to the Tax Commissioner. The West Virginia Alcohol Beverage Control Commissioner by appropriate rules and regulations shall provide for the collection of such tax upon all purchases within such municipality of intoxicating liquors from the Alcohol Beverage Control Commissioner, from any person licensed to sell wine at retail pursuant to the provisions of article eight, chapter sixty of this code, or from distributors licensed to sell or distribute wine pursuant to said article, and for distribution thereof to the respective municipalities for which the same shall be collected. Such rules and regulations shall provide that all such taxes shall be deposited with the State Treasurer and distributed quarterly by the Treasurer upon warrants of the Auditor payable to the municipality.

(3) Every municipality shall have plenary power and authority to levy and collect a fee from any private club licensee whose premises are situate therein as authorized in section seven, article seven, chapter sixty of this code.

(b) For purposes of this section:

(1) “Original sealed package” means an original package, as defined in this article, bearing an unbroken seal, as defined in this article. For purposes of this article, the term “original sealed package” does not mean or include a case, shipping box, carton, bottle caddy, cargo container, or any other packaging or container that is not in immediate physical contact with its liquid contents and which is not a “container” as defined in this article;

(2) “Original package” means that container, as defined in this article, into which the

manufacturer or bottler of a given liquor or wine first placed a given wine or liquor immediately after it was produced, which is intended by the manufacturer or bottler to be the container in which such wine or liquor is to be sold;

(3) "Seal" means a piece of wax, foil, metal, plastic or paper affixed to a container of liquor or wine in such a way that the seal must be broken when the container is opened. The purpose of a seal is to show evidence of opening, tampering or alteration of the container. A seal bears some combination of embossed, printed, engraved or impressed emblems, figures, symbols, words, trademarks, stamps, medallions, marks, or letters for attestation or evidence of authenticity. A seal is typically affixed to a package or container by the manufacturer or bottler of a given wine or liquor. The term "seal" may include a seal provided by or specified by this state and required by law to be affixed to a container of liquor or wine; and

(4) "Container" means a bottle, boxed wine box (including the liner, bag or bladder thereof), cask, can, jug or other holder of liquor or wine, which is in immediate physical contact with the liquid contents, and which is the only means by which its liquid contents are prevented from flowing or leaking out of the holder, and which is intended to be the container in which such wine or liquor is to be sold to final consumers.

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§8-13-8. License tax on horse racing and dog racing.

Every municipality within the corporate limits of which a horse racetrack or dog racetrack is located in whole or in part shall have plenary power and authority to impose upon the operator of the track a daily license tax for the privilege of conducting horse racing or dog racing within the corporate limits of the municipality. Such daily license tax shall not exceed the amount of the daily license tax due from such operator to the state under the provisions of article twenty-three, chapter nineteen of this code. The daily license tax hereby authorized shall not be applicable to any local, county or state fair, horse show or agricultural or livestock exposition at which horse racing or dog racing is conducted for not more than six days. A municipal license tax on horse racing or dog racing may be imposed under the provisions of this section but not under the provisions of section four of this article.

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§8-13-9. Motor vehicle operator's tax.

Every municipality shall have plenary power and authority to levy and collect an annual motor vehicle operator's license tax not to exceed $2. The tax shall apply only to inhabitants of the municipality.

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§8-13-10. Domestic animal tax.

Every municipality shall have plenary power and authority to levy and collect an annual license tax upon the privilege of keeping a domestic animal within the corporate limits of the municipality.

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§8-13-11. Preservation of prior taxing powers of cities.

Any city may include by charter provision, and may continue to exercise, all powers of taxation, other than property taxation, which were set forth in the special legislative charter of such city in effect on the date of the ratification of the municipal home rule amendment to the Constitution of this state, being section thirty-nine-a, article six of said Constitution, and which are not in conflict with general law.

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§8-13-12. Borrowing power.

Every municipality shall have plenary power and authority to borrow money on the general faith and credit of the municipality for any municipal purpose, in the manner and subject to the limitations provided by law for the issuance of general obligation bonds.

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§8-13-13. Special charges for municipal services.

(a) Notwithstanding any charter provisions to the contrary, a municipality which furnishes any essential or special municipal service, including, but not limited to, police and fire protection, parking facilities on the streets or otherwise, parks and recreational facilities, street cleaning, street lighting, street maintenance and improvement, sewerage and sewage disposal, and the collection and disposal of garbage, refuse, waste, ashes, trash, and any other similar matter, has plenary power and authority, subject to the limitations set forth in subsection (b) of this section, to provide by ordinance for the installation, continuance, maintenance, or improvement of the service, to make reasonable regulations of the service, and to impose by ordinance upon the users of the service reasonable rates, fees, and charges to be collected in the manner specified in the ordinance.

(b)(1) No new fire protection fee or charge, effective on or after June 30, 2024, may be imposed pursuant to this section on a person or business situated outside of the municipality's boundaries in a county that has imposed a county fire service fee pursuant to §7-17-12 of this code unless the municipality has entered into an intergovernmental agreement, which complies with the limitations set forth in subdivision (2) of this subsection, with the county commission having jurisdiction over any such person or business.

(2) The intergovernmental agreement referenced in subdivision (1) of this subsection must include, but is not limited to, the following terms:

(A) The municipality's fire protection fees and charges shall be limited to those persons and businesses located within first due areas covered by fire protection services sourced out of the municipality; and

(B) The municipality's fire protection fees and charges shall be the same for all persons and businesses located within and outside of the municipality's boundaries; and

(C) Under no circumstances may any person or business be required to pay both a municipal fire protection fee or charge pursuant to this section and a county fire service fee pursuant to §7-17-12 of this code, except for the pro-rata reconciliation during the first year after passage as set forth in paragraph (D) of this subdivision; and

(D) If any persons and businesses located within first due areas have paid their county fire service fee during the first year after the effective date of the amendments to this section enacted during the 2025 Regular Legislative Session, then (i) any municipality's fire protection fees and charges imposed by the municipality shall be limited to the difference, if any, between the county's fire service fee and the municipality's fire protection fees and charges within its municipal boundaries; and (ii) the county shall transfer its fire service fee revenues received from all persons and businesses located within first due areas that are covered by the intergovernmental agreement to the municipality; and

(E) After the first year following the effective date of the amendments to this section enacted

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during the 2025 Regular Legislative Session, persons and businesses located within first due areas covered by the intergovernmental agreement between the county commission and the municipality shall be subject only to the same municipal fire protection fees and charges which the municipality charges all other residents and businesses within its municipal boundaries.

(F) The intergovernmental agreement shall expire five years after the agreement becomes effective. The agreement may be renewed for successive additional terms of no more than five years each.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, any municipality may increase or decrease, in accordance with this section, a fire protection fee or charge that was in effect prior to June 30, 2024, so long as such increase or decrease is uniform for all persons and businesses that are subject to the municipality's fire protection fees and charges, whether by residency within municipal boundaries or by being subject controlling intergovernmental agreement.

(c) Any sewerage and sewage disposal service and any service incident to the collection and disposal of garbage, refuse, waste, ashes, trash, and any other similar matter is subject to the provisions of Chapter 24 of this code.

(d) A municipality may not have a lien on any property as security for payments due under subsection (a) of this section except as provided in subsection (e) of this section.

(e) A municipality may enact an ordinance, pursuant to this section, permitting it to file a lien on real property located within the municipal corporate limits for unpaid and delinquent fire, police, or street fees. The ordinance shall provide an administrative procedure for the municipality's assessment and collection of the fees. The administrative procedure shall require that, before any lien is filed, the municipality will give notice to the property owner, by certified mail, return receipt requested, that the municipality will file the lien unless the delinquency is paid by a date stated in the notice, which shall be no less than 90 days from the date the notice is mailed. The administrative procedure shall include the right to appeal to the circuit court of the county in which the real property is located. The circuit court shall consider the appeal under its general authority, including but not limited to §51-2-2(f) of this code.

(f) Notwithstanding the provisions of §8-11-4 of this code, any ordinance enacted or substantially amended under the provisions of this section shall be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code. The publication area for the publication is the municipality.

(g) If 30 percent of the qualified voters of the municipality, by petition duly signed by them in their own handwriting and filed with the recorder of the municipality within 45 days after the expiration of the publication, protest against the ordinance as enacted or amended, the ordinance may not become effective until it is ratified by a majority of the legal votes cast by

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the qualified voters of the municipality at a regular municipal election or special municipal election, as the governing body directs. Voting may not take place until after notice of the submission is given by publication as provided in subsection (f) of this section.

(h) The powers and authority granted to municipalities and to the governing bodies of municipalities in this section are in addition and supplemental to the powers and authority named in any charters of the municipalities.

(i) Notwithstanding any other provisions of this section, if rates, fees, and charges provided in this section are imposed by the governing body of a municipality for the purpose of replacing, and in amounts approximately sufficient to replace in its general fund amounts appropriated to be paid from ad valorem taxes upon property within the municipality, pursuant to an election duly called and held under the Constitution and laws of the state to authorize the issuance and sale of the municipality's general obligation bonds for public improvement purposes, the call for the election shall state that the governing body of the municipality proposes to impose rates, fees, and charges in specified amounts under this section for the use of one or more of the services specified in subsection (a) of this section, which shall be related to the public improvement proposed to be made with the proceeds of the bonds, no notice, publication of notice, or referendum, or election or other condition or prerequisite to the imposition of the rates, fees, and charges shall be required or necessary other than the legal requirements for issuance and sale of the general obligation bonds.

(j) Payments for rates, fees, and charges due under this section that are postmarked after the due date by which they are owed shall be considered late and may be subject to late fees or penalties: *Provided*, That payments that are received by the municipality after the due date, but that were postmarked on or before the due date shall be considered to be on time and shall not be assessed any late fees or penalties.

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PART IV. PENALTIES.

§8-13-14. Penalties.

Every municipality shall have plenary power and authority to provide, by ordinance, penalties for the violation of any ordinance enacted pursuant to the provisions of this article.

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§8-13-15. Collection of municipal taxes, fines and assessments.

Unless otherwise provided, it shall be the duty of the treasurer of the municipality or other individual who may be designated by general law, by charter provisions or by the governing body, to collect and promptly pay into the municipal treasury all taxes, fines, special assessments or other moneys due the municipality. All such taxes, fines, special assessments (except assessments for permanent or semipermanent public improvements) and other moneys due the municipality are hereby declared to be debts owing to the municipality, for which the debtor shall be personally liable, and the treasurer, or other individual so designated, may enforce this liability by appropriate civil action in any court of competent jurisdiction, and is hereby vested with the same rights to distrain for the same as is vested in the sheriff for the collection of taxes. Such treasurer or other individual shall give a bond, conditioned according to law, in such penalty and with such security as the governing body may require: Provided, That nothing in this article shall prohibit the payment of taxes, fines, special assessments or other moneys due the municipality by credit or check card. The municipality or municipal court may set a fee to be added to each transaction equal to the charge paid by the municipality for the use of the credit or check card by the debtor: Provided, That the municipality is required to obtain three bids and use the lowest qualified bid received. Provided, however, That if a municipality has obtained credit card services, the municipal court may be added to that service without receiving bids for that service. The municipality or municipal court shall disclose the amount of the fee to the debtor prior to the transaction and no other fees for the use of a credit or check card may be imposed upon the debtor. Acceptance of a credit or check card as a form of payment shall be in accordance with the rules and requirements set forth by the credit or check card provider. Allowing for the collection of these funds by credit or check card shall be at the discretion of the municipality or municipal court.

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§8-13-15a. Providing for payment at banking institutions.

Notwithstanding any other provision of this code the treasurer of the municipality, or other individual who may be designated by general law, by charter provision or by the governing body, to collect and promptly pay into the municipal treasury all taxes, fines, special assessments and other moneys due the municipality, may enter into a contract with one or more banking institutions, as defined in section two, article one, chapter thirty-one-a of this code, doing business in the municipality for the purpose of receiving payment of municipal taxes, fines, assessments and other moneys.

Any such contract shall specify the manner in which the taxes, fines, assessments and other moneys received shall be paid over to the municipality and a method for verification by the treasurer of the municipality of all amounts received pursuant to the contract. The contract may provide for the payment of a reasonable fee for the provision of such services by the banking institutions.

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§8-13-16. Remedies for failure to collect, account for or pay over moneys.

If the treasurer, or other individual designated, shall fail to collect, account for or pay over all or any of the moneys with which he may be chargeable, belonging to the municipality, according to the conditions of his bond and the orders of the governing body, it shall be lawful for the governing body to recover the same, in the name of the municipality, by civil action in the circuit court of the county in which the municipality or the major portion of the territory thereof is located, or, where the sum does not exceed $300, by suit before a justice of the district in which the municipality or the major portion of the territory thereof is located, against the treasurer, or other designated individual, or his sureties, or any or either of them, or his or their executors or administrators.

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PART VI. ACCOUNTING PRINCIPLES; FUNDS; DISBURSEMENTS.

§8-13-17. Reports, etc., to conform to fiscal year.

All reports, settlements, accounts and statements of municipalities which are now, or which may hereafter be, required by law shall be kept and made to conform to the fiscal year.

WV Legislature

§8-13-18. Audits and accounts.

The provisions of article nine, chapter six of this code shall apply to every municipality. By charter provision or ordinance, provision may be made for a system of budgeting, accounting and record keeping, and for the conduct of the transactions of the municipality, but any such provision shall not conflict with said article nine, chapter six or with the regulations or orders promulgated thereunder by the State Tax Commissioner.

WV Legislature

§8-13-19. Capital reserve fund.

The governing body of every municipality shall have plenary power and authority to establish a special fund to be known as the "capital reserve fund." The fund shall consist of unexpended balances of other funds which may be transferred to the fund, with the approval of the State Tax Commissioner, at the end of the fiscal year, and any other moneys authorized by law to be used for the purposes of the fund.

The fund shall be used, from time to time, for the construction, reconstruction, purchase or replacement of, or addition to, municipal buildings, public works, equipment, machinery, motor vehicles or other capital assets. Expenditures shall be made from the fund only in accordance with an appropriation made pursuant to the annual budget.

If a municipality accumulates its capital reserve fund for more than two years, the proceeds of the fund shall be transmitted to the state sinking fund commission on or before September 1, of each year. The proceeds of the fund may be withdrawn by the municipality upon reasonable notice in writing to the state sinking fund commission.

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§8-13-19a. Special account for federal and state grants-in-aid authorized.

In addition to the special fund account authorized by the provisions of section nineteen of this article, the governing body of every municipality shall have plenary power and authority to establish a special account for the deposit of funds received from and granted by the United States of America or the State of West Virginia and shall provide for the expenditure and appropriation of such funds in accordance with the applicable laws and regulations promulgated by the governmental authority making such grants. The funds so received and held in such special account shall not be considered as revenue in determining the amount of real and personal property taxes to be levied for the regular fiscal budget of such municipality under the provisions of article eight, chapter eleven of this code.

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§8-13-20. Balances in Municipal Bond Commission fund may be transferred or remitted to general fund where bonded indebtedness has been paid or where defeasance or payment of bonded indebtedness has been provided for; use of transferred or remitted funds.

(a) As used in this section, unless the context in which used clearly requires a different meaning, the word "commission" means the West Virginia Municipal Bond Commission.

(b) Every municipality shall have plenary power and authority to transfer to the General Fund of such municipality:

(1) Any unexpended balances of funds raised to pay the interest on and create sinking funds for any bonded indebtedness when the bonded indebtedness for the payment of which such funds were raised has been fully paid and discharged or when provision has been made, as hereinafter provided in subsection (d) of this section, to fully pay and discharge such bonded indebtedness, and

(2) Any balance remaining in any fund levied and collected under authority of any special levy election.

(c) The commission is authorized to remit to the municipality which has issued or issues any bonds, to be credited to the general of such municipality, any balances of funds remaining under the supervision and control of the commission when the bonded indebtedness for the payment of which such funds were raised and paid to the commission has been fully paid and discharged or when provision has been made, as hereinafter provided in subsection (d) of this section, to fully pay and discharge such bonded indebtedness.

(d) All outstanding bonds of any series shall, prior to the maturity date thereof, be deemed to have been fully paid and discharged when there shall have been deposited with the commission:

(1) Either moneys in an amount which shall be sufficient, or

(2) Securities of a quality in which the commission is authorized by law to invest moneys in its possession and control, the principal of an interest on which will provide moneys which, together with the moneys, and investment securities, if any, theretofore deposited with, or acquired by, the commission and held by it for the payment of such bonds and the moneys, if any, then deposited with the commission for such purpose, (i) shall be sufficient to pay when due the principal and interest due and to become due on said bonds on and prior to the maturity date thereof, or (ii) if the outstanding bonds are redeemable and the municipality by ordinance determines to redeem said outstanding bonds, shall be sufficient to pay when due the redemption price, and interest due and to become due on said bonds on and prior to the next redemption date thereof.

The moneys and securities held by the commission pursuant to this subsection (d) shall be

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held by the commission in trust for the payment of the principal or redemption price, if applicable, of and interest on the bonds for the payment or redemption of which such provision is made: Provided, That any cash received from principal or interest payments on securities so held by the commission, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in principal amounts sufficient to pay when due the principal or redemption price, if applicable, of and interest to become due on such bonds on and prior to the redemption date or maturity date thereof, as the case may be, and the interest earned from any such reinvestments shall be paid over to the municipality which issued such bonds, as received by the commission, free and clear of any trust. Any moneys, and the proceeds of any securities, held by the commission in trust for the redemption, if applicable, or for the payment and discharge of any series of bonds, which are in excess of the moneys required to fully pay and discharge such bonds, by redemption, if applicable, or upon maturity thereof, shall also be transferred to the General Fund of the municipality which issued such bonds after such bonds are redeemed, if applicable, or after such bonds are fully paid and discharged at maturity, as the case may be.

(e) In any case where such funds are transferred from sinking funds, or are remitted from the commission, as hereinabove provided, no part of the moneys so transferred or remitted shall be expended for the payment of current expenses of the municipality, but such funds shall be expended as the governing body of such municipality shall elect for the liquidation of existing nonbonded indebtedness, if any, of such municipality or for the liquidation of other bonded indebtedness of such municipality or for any combination of such uses.

WV Legislature

§8-13-21. Disposition of funds for public works when materials, etc., not available.

Every municipality which has raised, or which shall hereafter raise, by taxation or otherwise, any funds for any municipal public works, and is unable to obtain the necessary materials and equipment on account of priority restrictions imposed by the federal government on the sale of such materials and equipment, or for any other reason, shall have plenary power and authority, by proper resolution of its governing body, to place said funds in a special fund until such time as such materials and equipment shall become available to said municipality. When such materials and equipment shall become available to said municipality, it shall, by proper resolution of its governing body, direct the use of said funds for the purpose or purposes for which the same were raised.

WV Legislature

§8-13-22. Payment of money out of municipal treasury must be by order; signing of orders by mechanical or electrical devices; officers jointly and severally liable for neglect; forgery; penalty.

No money shall be paid out of any municipal treasury except upon an order duly signed by the municipal officers authorized to sign such order: Provided, That such signatures may be made by means of such mechanical or electrical device as the governing body may select. Such mechanical or electrical device for the making of such signatures shall be safely kept in the Office of the Treasurer or recorder so that no one shall have access thereto except the municipal officers authorized to sign such orders, the treasurer or recorder and such of their respective employees as may be authorized to have access thereto.

If the municipal officer or officers charged with the responsibility of keeping the aforementioned mechanical or electrical device wilfully or by neglect permit or make it possible for an unauthorized individual to sign the name of any municipal officer authorized to sign such order by the use of any such mechanical or electrical device upon any warrant, order or check, such municipal officer or officers shall be personally liable, jointly and severally, for the amount of any loss resulting to the municipality.

If any individual other than the individuals authorized so to do shall sign the name of any municipal officer authorized to sign such order by the use of any such mechanical or electrical device, or otherwise, upon any warrant, order or check, he shall be guilty of forgery; and if any individual shall utter or attempt to employ as true such forged warrant, order or check, knowing the same to be forged, he shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than two nor more than ten years.

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§8-13-22a. Investment of municipal funds.

(a) All municipal funds, the investment of which is not governed by other provisions of this code and not required for the payment of current obligations and not otherwise prohibited, may be invested and reinvested in:

(1) Any direct obligation of, or obligation guaranteed as to the payment of both principal and interest by, the United States of America;

(2) Any evidence of indebtedness issued by any United States government agency guaranteed as to the payment of both principal and interest, directly or indirectly, by the United States of America including, but not limited to, the following: Government National Mortgage Association, federal land banks, federal home loan banks, federal intermediate credit banks, banks for cooperatives, Tennessee Valley Authority, United States postal service, farmers home administration, export-import bank, federal financing bank, federal home loan mortgage corporation, student loan marketing association and federal farm credit banks;

(3) Any evidence of indebtedness issued by the Federal National Mortgage Association to the extent such indebtedness is guaranteed by the government National Mortgage Association;

(4) Any evidence of indebtedness that is secured by a first lien deed of trust or mortgage upon real property situate within this state, if the payment thereof is substantially insured or guaranteed by the United States of America or any agency thereof;

(5) Direct and general obligations of this state;

(6) Any undivided interest in a trust, the corpus of which is restricted to mortgages on real property and, unless all of such property is situate within the state and insured, the trust at the time of the acquisition of the undivided interest, is rated in one of the three highest rating grades by an agency which is nationally known in the field of rating pooled mortgage trusts;

(7) Any bond, note, debenture, commercial paper or other evidence of indebtedness of any private corporation or association: *Provided*, That any such security is, at the time of its acquisition, rated in one of the three highest rating grades by an agency which is nationally known in the field of rating corporate securities: *Provided, however*, That if any commercial paper or any such security will mature within one year from the date of its issuance, it shall, at the time of its acquisition, be rated in one of the two highest rating grades by any such nationally known agency and commercial paper or other evidence of indebtedness of any private corporation or association shall be purchased only upon the written recommendation from an investment advisor that has over $300 million in other funds under its management;

(8) Negotiable certificates of deposit issued by any bank, trust company, national banking association or savings institution which mature in no more than five years and are fully

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collateralized;

(9) Interest earning deposits including certificates of deposit, with any duly designated state depository, which deposits are fully secured by a collaterally secured bond as provided in §12-1-4 of this code: *Provided*, That a banking institution is not required to provide this collaterally secured bond, or other security in lieu of bond, if the public deposits accepted are placed in certificates of deposit meeting the following requirements:

(A) The funds are invested through a designated state depository selected by the municipality;

(B) The selected depository arranges for the deposit of the funds in certificates of deposit in one or more banks or savings and loan associations wherever located in the United States, for the account of the municipality;

(C) The full amount of principal and accrued interest of each certificate of deposit is insured by the Federal Deposit Insurance Corporation;

(D) The selected depository acts as custodian for the municipality with respect to such certificates of deposit issued for the municipality's account; and

(E) On the same date the public moneys are redeposited by the public depository, the public depository may, in its sole discretion, choose whether to receive deposits, in any amount, from other banks, savings banks, or savings and loan associations.

(10) Mutual funds registered with the Securities and Exchange Commission which have assets in excess of $300 million; and

(11) Deposits with any duly designated state depository that is selected and authorized by the municipality to arrange for the redeposit of the funds through a deposit placement program that meets the following conditions:

(b) On or after the date that the municipal funds are received the selected depository:

(1) Arranges for the redeposit of the funds into deposit accounts in one or more federally

insured banks or savings and loan associations that are located in the United States; and

(2) serves as custodian for the municipality with respect to the funds deposited into such accounts.

(c) Municipal funds deposited in a selected depository in accordance with this section and held at the close of business in the selected depository in excess of the amount insured by the Federal Deposit Insurance Corporation shall be secured in accordance with §12-1-4 of this code.

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(d) The full amount of the funds of the municipality redeposited by the selected depository into deposit accounts in banks or savings and loan associations pursuant to this subsection (plus accrued interest, if any) shall be insured by the Federal Deposit Insurance Corporation.

(e) On the same date that the funds of the municipality are redeposited pursuant to this subsection, the selected depository receives an amount of deposits from customers of other financial institutions through the direct placement program that are equal to the amount of the municipality's funds redeposited by the selected depository.

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§8-13-22b. Voluntary direct deposits by municipal treasurer of salaries of employees to banks or other financial institutions.

Any officer or employee of a municipality of West Virginia may authorize that his net wages be deposited directly to his account in any bank or other financial institution within this state. The direct deposits may be authorized on a form provided by the municipality. Upon execution of such authorization and its receipt by the municipal treasurer, the direct deposits shall be made in the manner specified on the form and remitted to the designated bank or other financial institution on or before the day or days the officer or employee is due his net wages. Direct deposit authorizations may be revoked at any time thirty days prior to the date on which the direct deposit is regularly made and on a form to be provided by the municipal treasurer.

WV Legislature

§8-13-22c. Restrictions on investment.

Moneys invested as permitted by section eleven of this article are subject to the restrictions and conditions contained in this section:

(1) At no time may more than seventy-five percent of the portfolio of either fund be invested in securities described in subdivision (7), section eleven of this article;

(2) At no time may more than twenty percent of the portfolio of either fund be invested in securities described in subdivision (7), section eleven of this article which mature within one year from the date of issuance thereof;

(3) At no time may more than nine percent of the portfolio be invested in securities issued by a single private corporation or association; and

(4) At no time may more than sixty percent of the portfolio be invested in equity mutual funds under subdivision (10), section eleven of this article.

WV Legislature

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

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

(b)(1) Except as provided in subdivision (2) of this subsection, for purchases of services or commodities made on or after July 1, 1995, a check shall be issued in payment thereof within sixty days after a legitimate uncontested invoice is received by the municipality or agency receiving the services or commodities. Any check issued after the sixty days shall include interest at the current rate, as determined by the State Tax Commissioner under the provisions of section seventeen-a, article ten, chapter eleven of this code, which interest shall be calculated from the sixty-first day after the invoice was received by the municipality or agency until the date on which the check is mailed to the vendor: Provided, That this section shall not apply if payment cannot be made within the sixty-day period because of unforeseen budgetary constraints.

(2) For purposes of this subsection, an invoice shall be deemed to be received by a municipality or agency on the date on which the invoice is marked as received by the municipality or agency, or the date of the postmark made by the United States postal service as evidenced on the envelope in which the invoice is mailed, whichever is earlier, unless the vendor can provide sufficient evidence that the invoice was received by the municipality or agency on an earlier date: Provided, That in the event an invoice is received by a municipality or agency prior to the date on which the commodities or services covered by the invoice are delivered and accepted or fully performed and accepted, the invoice shall be deemed to be received on the date on which the commodities or services covered by the invoice were actually delivered and accepted or fully performed and accepted.

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

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

(e) Any other municipality or agency charged by law with processing a municipal agency's requisition for payment of a legitimate uncontested invoice shall either process the claim or reject it for good cause within ten days after such municipality or agency receives it. Failure to comply with the requirements of this subsection shall render the municipal agency liable

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for payment of the interest mandated by this section when there is a failure to promptly pay a legitimate uncontested invoice: Provided, That a municipal agency shall not be liable for payment of interest owed by another municipal agency under this section.

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

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

WV Legislature

§8-13-23. Preparation, publication and disposition of financial statements.

(a) Every city, within ninety days after the beginning of each fiscal year, shall prepare on a form to be prescribed by the State Tax Commissioner and cause to be published a sworn statement revealing: (1) The receipts and expenditures of the city during the previous fiscal year; (2) the name of each person who received more than $50 during the previous fiscal year, together with the amount received; and (3) all debts of the city, the purpose for which each debt was contracted, its due date and to what date the interest on the debt has been paid. The statement shall be published as a Class I 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 city: Provided, That all salaries, receipts, payments to each individual vendor and expenditures to employees of municipal offices, companies and departments may be published in the aggregate.

(b) Every city shall transmit to any resident of the city who requests it a copy of any published statement for the fiscal year designated, supplemented by a document listing the names of each person who received less than $50 from any fund during the fiscal year and showing the amount paid to each and the purpose for which paid and an itemization of the salaries, receipts, payments to each individual vendor and expenditures to employees of municipal offices, companies and departments otherwise published in the aggregate.

(c) Every town or village, within one hundred twenty days after the beginning of each fiscal year, shall prepare on a form to be prescribed by the State Tax Commissioner a sworn statement revealing: (1) The receipts and expenditures of the town or village during the previous fiscal year arranged under descriptive headings; (2) the name of each person who received money from any fund during the previous fiscal year, together with the amount received and the purpose for which paid; and (3) all debts of the town or village, the purpose for which each debt was contracted, its due date and to what date the interest on the debt has been paid: Provided, That all salaries, receipts, payments to each individual vendor and expenditures to employees of municipal offices, companies and departments may be published in the aggregate.

(d) Every town or village shall transmit to any resident of the town or village who requests it, a copy of any statement for the fiscal year designated. Any town or village may, if its governing body thereof elects, also publish the statement as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and in that event, the publication area for the publication shall be the town or village.

(e) The statement required by subsection (a) of this section and the statement required by subsection (c) of this section shall be sworn to by the recorder, the mayor and two members of the governing body of the municipality. As soon as practicable following the close of the fiscal year, a copy of any statement required by this section shall be filed by the municipality with the State Tax Commissioner, the clerk of the county commission of the county and the clerk of the circuit court of the circuit in which the municipality or the major portion of the territory of the municipality is located. If the governing body fails or refuses to perform any

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of the duties set forth in this section, every member of the governing body and the recorder of the governing body concurring in the failure or refusal shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $10 nor more than $100. If any of the provisions of this section are violated, it is the duty of the prosecuting attorney of the county in which the municipality or the major portion of the territory of the municipality is located to immediately present the evidence of the violation to the grand jury if in session, and if not in session he or she shall cause the violations to be investigated by the next succeeding grand jury.

(f) Where in subsections (a), (b) and (c) of this section, salaries, receipts, payments to each individual vendor and expenditures are published in the aggregate, the city, town or village shall, upon written request, provide to any resident of the city, town or village an itemized accounting of the salaries, receipts, payments to each individual vendor and expenditures.

WV Legislature

§8-13-24. Notice of delinquency.

Plenary power and authority is hereby conferred upon all municipalities to adopt an ordinance providing for the publication of delinquent business and occupation taxes, subject to the requirements and limitations set forth herein. The ordinance shall set forth the time, place and manner in which the publication shall occur and shall identify the official or officials responsible for conducting and overseeing the publication. Any such ordinance shall provide for notice of the delinquency to the taxpayer at least thirty days prior to publication. Said notice may be by mail to each delinquent taxpayer or may be by general notice of the forthcoming publication by publishing 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 such publication shall be the municipality. No delinquency shall be published by the municipality unless the delinquency has lasted for at least for at least four consecutive quarters.

WV Legislature

§8-13-25. Delinquent list preparation.

(a) Notwithstanding the prohibition on disclosure set forth in §11-10-5d(a) of this code, the official designated to conduct publication of delinquent business and occupation taxes provided for by §8-13-24 of this code shall prepare the delinquent list in a manner set forth in the ordinance, so long as it is consistent with the requirements and limitations set forth herein. The ordinance shall require the designated code official adopt policies and procedures designed to verify each delinquency prior to publication.

(b) The delinquent list may include the name of the delinquent taxpayer and the year or years in which the delinquency arises.

(c) For each delinquent list published by the municipality, and prior to the publication, the official designated in the ordinance to oversee or conduct the publication shall take an oath, to be included in or attached to the delinquent list, certified by the city clerk or some other person duly authorized to administer oaths, in form and effect as follows:

"I, _____ (municipal official title) of _____, do swear, to the best of my knowledge and belief, that the foregoing list of delinquent business and occupation taxes to be published on _____, is complete and accurate, and, as of _____ (date of certification), that I have not received payment from any of the entities listed for the delinquent amounts included in the list."

(d) Nothing in this section shall be construed to subject the official designated to conduct publication of delinquent Business and Occupation Taxes under this section, or his or her representative or designee, to the penalties set forth in §11-10-5d(c) or any other penalty set forth in §11-10-5d et seq. of this code.

WV Legislature

§8-13-26. Publication and posting of delinquent tax list; costs.

(a) A copy of a delinquent list may be posted at the front door of city hall or other municipal buildings used to conduct municipal business, and may be published as a Class I-0 legal advertisement in the newspaper or other media in compliance with the provisions of article three, chapter fifty-nine of this code, on the municipality's website or in such other reasonable manner as determined by the municipality to provide notice of the delinquency without incurring unnecessary costs related to the publication.

(b) To cover the costs of preparing, publishing and posting a delinquent list, a reasonable charge may be added to the amount owed by a taxpayer included in any such list, in addition to the tax, interest and penalty already owed by the taxpayer.

WV Legislature

§8-13-27. Notice of delinquent lists to city council and retention of list by city.

A copy of each published delinquent list shall be provided to the city council of the municipality not later than the first regular meeting of the city council after the publication. A copy of the delinquent list shall be retained by the official designated in the ordinance for a period of not less than three years.

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