

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949



# ENROLLED

HOUSE BILL No. 397

(By Mr. File )



PASSED March 12 1949

In Effect From Passage



397  
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**ENROLLED**

**House Bill No. 397**

(By MR. FILE, by request)

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[Passed March 12, 1949; in effect from passage.]

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AN ACT to amend and reenact section seventeen, chapter sixty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, relating to establishment, maintenance, adjustment, readjustment, collection and enforcement of rates or charges for municipal public works, and providing for the collection and enforcement of rates or charges heretofore or hereafter established and maintained for the improvement or protection of property, provided or afforded by a municipal flood control system from the time provided in the municipal ordinance or resolution establishing such rates or charges, if, at such time, such works, though not yet fully constructed, are nearing completion and the municipal authorities are reasonably assured that such works will be completed and placed in operation without unreasonable delay.

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

That section seventeen, chapter sixty-eight, acts of the Legislature, regular session, one thousand nine hundred thirty-five, be amended and reenacted to read as follows:

Section 17. *Charges for Services Rendered by Works.*—

2 Municipal authorities shall have the power and it shall  
3 be their duty, by ordinance or resolution, to establish and  
4 maintain just and equitable rates or charges for the use  
5 and services rendered, or the improvement or protection  
6 of property, provided or afforded by such works, to be  
7 paid by the person using the same, receiving the services  
8 thereof, or owning the property improved or protected  
9 thereby, and may readjust such rates or charges from  
10 time to time. Rates or charges heretofore or hereafter  
11 established and maintained for the improvement or pro-  
12 tection of property, provided or afforded by a municipal  
13 flood control system, to be paid by the person owning  
14 the property improved or protected thereby, shall be  
15 collectible and enforceable from the time provided in such  
16 ordinance or resolution, any provision of this or any other  
17 law to the contrary notwithstanding, if, at such time,

18 such works, though not yet fully constructed, are nearing  
19 completion and such municipal authorities are reason-  
20 ably assured that such works will be completed and placed  
21 in operation without unreasonable delay. Such rates or  
22 charges shall be sufficient in each year for the payment  
23 of the proper and reasonable expenses of operation, repair,  
24 replacements and maintenance of the works, and for the  
25 payment of the sums herein required to be paid into the  
26 sinking fund.

27 Revenues collected pursuant to this section shall be  
28 deemed the revenues of the works. No such rates or  
29 charges shall be established until after a public hearing  
30 at which all the users of the works and/or owners of the  
31 property served, or to be served thereby, and others inter-  
32 ested, shall have an opportunity to be heard concerning  
33 the proposed rates or charges. After introduction of pro-  
34 posal of the ordinance or resolution fixing such rates or  
35 charges and before the same is finally enacted or passed,  
36 notice of such hearing, setting forth the proposed schedule  
37 of such rates or charges, shall be given by publishing  
38 same once each week for two successive weeks in two

39 newspapers of opposite political faith published in such  
40 municipality, or in one newspaper, if only one political  
41 faith is represented by newspapers in the said munici-  
42 pality, or, if there be no newspapers so published, then  
43 such ordinances shall be posted in at least three public  
44 places therein, the first publication or posting of said no-  
45 tice to be at least ten days before the date fixed in such  
46 notice for the hearing, which hearing may be adjourned  
47 from time to time. No other or further notice to parties  
48 at interest shall be required. After such hearing the ord-  
49 inance or resolution establishing rates or charges, either  
50 as originally proposed or introduced, or as modified and  
51 amended, shall be passed or adopted and put into effect.  
52 A copy of the schedule of such rates and charges so estab-  
53 lished shall be kept on file in the office of the board hav-  
54 ing charge of the operation of such works, and also in the  
55 office of the municipal authorities, and shall be open to  
56 inspection by all parties interested. The rates or charges  
57 so established for any class or users or property served,  
58 shall be extended to cover any additional class or users  
59 or property thereafter served which fall within the same

60 class, without the necessity of any hearing or notice. Any  
61 change or readjustment of rates may be made in the same  
62 manner as such rates or charges were originally estab-  
63 lished as hereinabove provided. The aggregate of the  
64 rates or charges shall always be sufficient for such ex-  
65 pense of operation, repairs and maintenance, and for such  
66 sinking fund payments. If any service rates, charge or  
67 fee so established shall not be paid within thirty days  
68 after the same is due, the amount thereof may be recov-  
69 ered by the board in a civil action in the name of the  
70 municipality, and in the case of charges due for services  
71 rendered, such charges, if not paid when due, may, if coun-  
72 cil so provide in the ordinance provided for under section  
73 six of this act, constitute a lien upon the premises served  
74 by such works, which lien may be foreclosed against such  
75 lot, parcel of land or building so served, in accordance  
76 with the laws relating to the foreclosure of liens on real  
77 property. Upon failure of any person receiving any such  
78 service to pay for same when due, the board may discon-  
79 tinue such service without notice.

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

Joseph L. McKen  
Chairman Senate Committee

R. Matthews  
Chairman House Committee

Originated in the House of Delegates

Takes effect From passage.

Howard Myers  
Clerk of the Senate

J. R. Smith  
Clerk of the House of Delegates

Franklin D. Houston  
President of the Senate

W. E. Hammon  
Speaker House of Delegates

The within APPROVED this the 18TH

day of MARCH, 1949.

Okey L. Patterson  
Governor



Filed in the Office of the Secretary of State  
of West Virginia MAR 18 1949  
D. PITT O'BRIEN,  
SECRETARY OF STATE