WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED
Committee Substitute for
SENATE BILL NO. 211

(By Senator

PASSED March 9, 1995
In Effect July 4, 1995 Passage
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 supplies services or commodities to any county, or agency thereof, shall be entitled to prompt payment upon presentation to that county or agency of a legitimate uncontested invoice.

2 (b) (1) Except as provided in subdivision (2) of this subsection, for purchases of services or commodities made on or after the first day of July, one thousand nine hundred ninety-five, a check shall be issued in payment thereof within sixty days after a legitimate uncontested invoice is received by the county or agency receiving the services or commodities. Any check issued after such 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 county 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 (2) For purposes of this subsection, an invoice shall be deemed to be received by a county, or agency thereof, on the date on which the invoice is marked as received by the county 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 county or agency on
an earlier date: Provided, That in the event an invoice is
received by a county, or agency thereof, 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 cov-
ered by the invoice were actually delivered and accepted
or fully performed and accepted.

(c) The sheriff 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 sheriff shall deduct the amount
of interest due on a pro rata basis.

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

(e) Any other county agency charged by law with
processing a county 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 the
agency receives it. Failure to comply with the require-
ments of this subsection shall render the county agency
liable for payment of the interest mandated by this
section when there is a failure to promptly pay a legiti-
mate uncontested invoice: Provided, That a county
agency shall not be liable for payment of interest owed
(f) For purposes of this section, the term "agency"
means any agency, department, board, office, bureau,
commission, authority or any other entity of county
government.

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

(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 legiti-
mate uncontested invoice.

(b) (1) Except as provided in subdivision (2) of this
subsection, for purchases of services or commodities
made on or after the first day of July, one thousand nine
hundred ninety-five, a check shall be issued in payment
thereof within sixty days after a legitimate uncontested
invoice is received by the municipality or agency receiv-
ing 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 state 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.
61 Failure to comply with the requirements of this subsection shall render the municipal 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 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".
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 1995.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the day of , 19__.

Governor