WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

ENROLLED

SENATE BILL NO. 395

(By Senators Wingerbusch and Buchmeier)

PASSED April 9, 1997
In Effect July 1, 1997
AN ACT to amend and reenact section five-a, article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to public utilities tax imposed by municipalities and the exceptions or exemptions thereto.

Be it enacted by the Legislature of West Virginia:

That section five-a, article thirteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13. TAXATION AND FINANCE.

PART 1. POWERS OF TAXATION.


1 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 telecomm-
unications 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 hearing impaired 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 ac-
count to the municipality 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 reason-
able 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 sixty 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 shall 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, one thousand nine hundred thirty-one, as amended, the provisions of this section are in addition to all other taxing authority heretofore granted municipalities.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1997.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within............. approved this the............. day of............., 1997.

[Signature]
Governor