

HB 2723

FILED

2009 MAY 12 PM 4: 01

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 2723**

(By Delegates Morgan, Martin, Argento, Beach
Caputo, Eldridge, Andes and C. Miller)



Passed April 11, 2009

In Effect Ninety Days from Passage

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H. B. 2723

**(BY DELEGATES MORGAN, MARTIN, ARGENTO, BEACH,
CAPUTO, ELDRIDGE, ANDES AND C. MILLER)**

[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §8-13-13 of the Code of West Virginia, 1931, as amended, relating to authorizing municipalities to file liens for delinquent service fees; requiring municipal ordinances to have assessment and collection procedures for the service fees; requiring administrative procedures by municipalities for imposition of liens; and requiring the right to appeal to circuit court.

Be it enacted by the Legislature of West Virginia:

That §8-13-13 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 13. TAXATION AND FINANCE.

PART III. SPECIAL CHARGES FOR MUNICIPAL SERVICES.

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

10:4 117 S 1 (a) Notwithstanding any charter provisions to the
2 contrary, a municipality which furnishes any essential or
3 special municipal service, including, but not limited to, police
4 and fire protection, parking facilities on the streets or
5 otherwise, parks and recreational facilities, street cleaning,
6 street lighting, street maintenance and improvement,
7 sewerage and sewage disposal, and the collection and
8 disposal of garbage, refuse, waste, ashes, trash and any other
9 similar matter, has plenary power and authority to provide by
10 ordinance for the installation, continuance, maintenance or
11 improvement of the service, to make reasonable regulations
12 of the service, and to impose by ordinance upon the users of
13 the service reasonable rates, fees and charges to be collected
14 in the manner specified in the ordinance.

15 (b) Any sewerage and sewage disposal service and any
16 service incident to the collection and disposal of garbage,
17 refuse, waste, ashes, trash and any other similar matter is
18 subject to the provisions of chapter twenty-four of this code.

19 (c) A municipality shall not have a lien on any property
20 as security for payments due under subsection (a) of this
21 section except as provided in subsection (d) of this section.

22 (d) A municipality has authority to enact an ordinance,
23 pursuant to this section, permitting it to file a lien on real
24 property located within the municipal corporate limits for
25 unpaid and delinquent fire, police or street fees. The
26 ordinance must provide an administrative procedure for the
27 municipality's assessment and collection of the fees. The
28 administrative procedure must require that, before any lien is
29 filed, the municipality will give notice to the property owner,
30 by certified mail, return receipt requested, that the
31 municipality will file the lien unless the delinquency is paid
32 by a date stated in the notice, which must be no less than
33 ninety days from the date the notice is mailed. The

34 administrative procedure must include the right to appeal to
35 the circuit court of the county in which the real property is
36 located. The circuit court shall consider the appeal under its
37 general authority, including but not limited to subsection (f),
38 section two, article two of chapter fifty-one of this code.

39 (e) Notwithstanding the provisions of section four, article
40 eleven of this chapter, any ordinance enacted or substantially
41 amended under the provisions of this section shall be
42 published as a Class II legal advertisement in compliance
43 with the provisions of article three, chapter fifty-nine of this
44 code. The publication area for the publication is the
45 municipality.

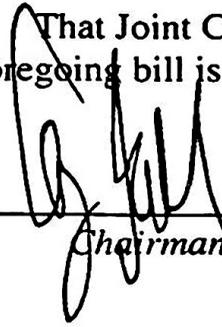
46 (f) In the event thirty percent of the qualified voters of the
47 municipality, by petition duly signed by them in their own
48 handwriting and filed with the recorder of the municipality
49 within forty-five days after the expiration of the publication,
50 protest against the ordinance as enacted or amended, the
51 ordinance shall not become effective until it is ratified by a
52 majority of the legal votes cast by the qualified voters of the
53 municipality at a regular municipal election or special
54 municipal election, as the governing body directs. Voting
55 shall not take place until after notice of the submission is
56 given by publication as provided in subsection (e) of this
57 section.

58 (g) The powers and authority granted to municipalities
59 and to the governing bodies of municipalities in this section
60 are in addition and supplemental to the powers and authority
61 named in any charters of the municipalities.

62 (h) Notwithstanding any other provisions of this section,
63 if rates, fees and charges provided in this section are imposed
64 by the governing body of a municipality for the purpose of
65 replacing, and in amounts approximately sufficient to replace

66 in its general fund amounts appropriated to be paid from ad
67 valorem taxes upon property within the municipality,
68 pursuant to an election duly called and held under the
69 Constitution and laws of the state to authorize the issuance
70 and sale of the municipality's general obligation bonds for
71 public improvement purposes, the call for the election shall
72 state that the governing body of the municipality proposes to
73 impose rates, fees and charges in specified amounts under
74 this section for the use of one or more of the services
75 specified in subsection (a) of this section, which shall be
76 related to the public improvement proposed to be made with
77 the proceeds of the bonds, no notice, publication of notice, or
78 referendum or election or other condition or prerequisite to
79 the imposition of the rates, fees and charges shall be required
80 or necessary other than the legal requirements for issuance
81 and sale of the general obligation bonds.

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



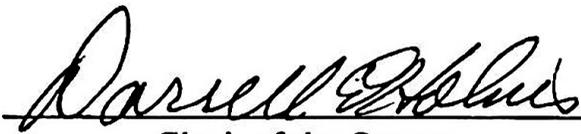
Chairman Senate Committee



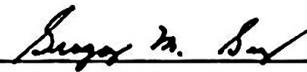
Chairman House Committee

Originating in the House.

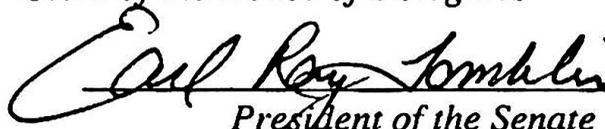
In effect ninety days from passage.



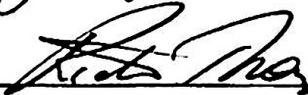
Clerk of the Senate



Clerk of the House of Delegates

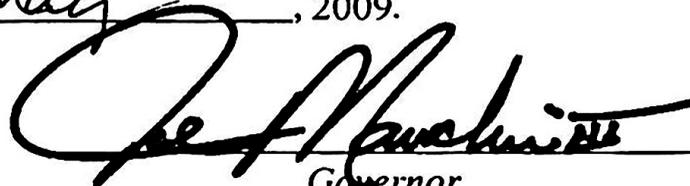


President of the Senate



Speaker of the House of Delegates

The within as appended this the 12th
day of May, 2009.



Governor

PRESENTED TO THE
GOVERNOR

MAY 8 2009

Time 2:25 pm