

# Chapter 2

## Finance

As was previously pointed out in discussing the powers of county commissioners, the counties have no inherent right of taxation. They are limited to those taxing powers provided by the Constitution and or by legislative enactment.

Article 10, section 1 of the Constitution, in addition to its requirements with respect to property tax, grants to the Legislature the authority to tax privileges, franchises, and incomes of persons and corporations. The West Virginia Supreme Court held in *Baldwin v. City of Martinsburg*, 133 W.Va. 513, as follows:

*"there can be no doubt that under section 1 of article X of our state Constitution, the Legislature may tax privileges, and may delegate that power to municipal corporations organized and existing under the laws of this state."*

The holding of the West Virginia Supreme Court in *Baldwin v. City of Martinsburg*, heretofore cited, clearly establishes the authority of the Legislature to delegate broad taxing powers to the county commissions.

The basic power of the county commission to impose a levy on the value of various types of property is Constitutional. Property taxes will be the subject of a later section. In this section we will discuss those sources of revenue, other than the property tax, made available to the county commissions by legislative enactment. Certain taxes, authorized for use by the county commissions, may be mandated by the legislature, imposed state-wide and require no action on the part of the commissions. Other taxes are permissive and are imposed at the discretion of the commission and require formal action by the commission.

Fees, commissions, and earnings of the various elective county offices, user fees for various services such as fire protection, etc., rents and concessions, interest on investment and grants from federal and state agencies are other available sources of revenue. <sup>1</sup>

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<sup>1</sup> See appendix-C for county revenue by county.

# Taxes Mandated by Legislature & Imposed State-Wide

## I. *Severance Taxes*

### A. Coal Severance

Chapter 11, article 13A, section 6 of the Code imposes an additional tax on the severance, extraction, and production of coal. The tax is imposed in addition to the state "severance" tax. The tax is imposed upon every person exercising the privilege or engaging within this state in the business of severing coal, or preparing coal, or both for sale, profit or commercial use. A tax of thirty-five one hundredths of one percent is imposed upon the value of the coal severed or produced. The value is measured by the gross proceeds derived from the sale thereof.

The tax is collected by the state and disbursed to local governing bodies quarterly in accordance with the provision of law. Seventy-five percent of the revenues is disbursed to coal producing counties on the basis of tonnage produced in a county in proportion to total state production. The remaining twenty-five percent is distributed to all cities and all counties on a population basis.

Each county must create a separate "coal severance tax revenue fund" into which all moneys received from this tax is to be deposited. Expenditures out of this fund must be budgeted separately on forms provided by the tax commissioner detailing how such revenues are to be spent during the subsequent fiscal year. No more than twenty-five percent of such revenues may be expended for personal services. In counties of more than two hundred thousand population (this currently only applies to Kanawha County), at least seventy-five percent of such funds are to be expended in the coal producing areas of the county.

### B. Oil and Gas Severance

As of July 1, 1997, Chapter 11, article 13A, section 5a of the Code requires 10% of the tax attributable to the severance of oil and gas to be dedicated for the use and benefit of counties and municipalities. The severance tax imposed by 11-13A-3a is 5% of the gross value of the natural gas and/or oil produced in the state. The value is measured by the gross proceeds derived from the sale thereof.

The tax is collected by the state and disbursed to local governing bodies annually in accordance with the provision of law. Seventy-five percent of the revenue is disbursed to oil & gas producing counties on the basis of cubic feet of gas severed in a county in proportion to the total volume of cubic feet produced in the state (in the preceding year) and in the case of severance tax on oil, the number of barrels of oil extracted from a county in proportion to the total extracted in the state. The remaining 25% is distributed to all counties and cities based on population.

All moneys received from this tax is to be deposited in the County's General fund. No more than twenty-five percent of such revenues may be expended for personal services. In counties of more than two hundred thousand population (this currently only applies to Kanawha County), at least seventy-five percent of such funds are to be expended in the oil & gas producing areas of the county.

## **II. *Excise Tax on Privilege of Transferring Real Property***

Chapter 11, article 22, section 2 requires every person who delivers, accepts or presents for recording any document or on whose behalf any document is delivered, accepted or presented for recording, to pay a state excise tax for the privilege of transferring title to real estate. The same section imposes an additional county excise tax for this privilege.

The state tax rate is one dollar and ten cents for each five hundred dollars value or fraction thereof, to be paid at the time of delivery, acceptance, or presenting the document for recording. The county tax rate is fifty-five cents for each five hundred dollars or fraction thereof. A county commission may, at its discretion, increase the county excise tax to an amount equal to the state excise tax (one dollar and ten cents per five hundred dollars or fraction thereof). Effective January 1, 2003, county commissions who have adopted and implemented a farmland protection program, may impose an additional tax of no more than one dollar and ten cents for each five hundred dollars' value or fraction thereof on the privilege of transferring title to real estate. The amount from this additional tax is to be used exclusively for the purpose of funding of farmland protection programs.

The increase in the county excise tax must be approved by a majority of the commission and a notice of the intent to increase the tax must be published not less than thirty or more than sixty days prior to the meeting at which such increase will be considered.

The payment of the tax is evidenced by the affixing of documentary stamps. The tax commissioner must prepare and furnish adhesive stamps to the county clerk. The stamps must be purchased from the county clerk of the county in which the property to be transferred is situated and thereupon affixed to the document. The tax commissioner is authorized to adopt, promulgate and enforce all matters pertaining to the provisions of the legislative act.

Document means any deed or instrument or writing whereby any real property within this state or any interest therein is granted, conveyed or otherwise transferred to a grantee, purchaser or any other person. There are several transfers of real property, such as will, etc. excluded from the tax. For a complete list, refer to chapter 11, article 22, section 2 of the code.

## **III. *Head Tax on Dogs***

Chapter 19, article 20, section 2 requires the county assessors and their deputies, at the time they are making assessments of personal property to assess and collect a head tax of three dollars on each dog, male and female. In addition to the forgoing, the assessors and their deputies are required to collect any head tax on dogs that may be levied by municipal ordinances.

The assessor is required to pay ninety percent of such county taxes collected into the county treasury and ninety percent of all municipal head tax on dogs to the proper municipal officer. The assessor retains the remaining ten percent as a commission.

All such county dog taxes collected and paid into the county treasury must be accredited to the dog

and kennel fund. Chapter 19, article 20, section 6 of the West Virginia Code states that the county commission of each county may appoint a county dog warden and deputies as the commission shall deem reasonable and necessary. In addition to any compensation provided by the county commission, a bounty of fifty cents per dog shall be paid to the county dog warden or deputy who captures an unregistered dog.

The county commission shall expend the dog and kennel funds only for actual expenses incurred by the commission, the assessor, and the sheriff in carrying out the provisions of this article to pay for the services of the dog warden, his deputies, pound keepers and other persons as may be employed, if any, or may render services. The commission may also expend the fund for mileage at a rate up to fifteen cents per mile for use of their privately-owned vehicles by the dog warden and his deputies. The commission may expend for various other purposes reasonably necessary to carry out the provisions of this article.

The county commission of any county may contract with any municipality within the county for the joint ownership, leasing, operation and maintenance within the county of a dog pound and may jointly employ a dog warden or dog wardens. The county commission of each county may contract with or reimburse any private incorporated society or association with respect to the care, maintenance, control and destruction of dogs in the county.

#### **IV. Tax on Purchase of Intoxicating Liquors Outside Corporate Limits of Municipalities**

Chapter 60, article 3, section 9d of the WV Code provides as follows:

*For the purpose of providing financial assistance to and for the use and benefit of the various counties and municipalities of this state, there is hereby levied a tax upon all purchases outside the corporate limits of any municipality of intoxicating liquor from state stores or other agencies of the alcohol beverage control commissioner, of wine from any person licensed to sell wine at retail under the provisions of article eight, chapter sixty of this Code, and of wine from distributors licensed to sell or distribute wine under provisions of said article eight. The tax shall be five percent of the purchase price and shall be added to and collected with the purchase price by the commissioner, by the person licensed to sell or distribute wine at retail, or by the distributor licensed to sell or distribute wine, as the case may be: Provided, That no such tax shall be collected on the intoxicating liquors sold or purchased from holders of a license issued under the provisions of article seven of this chapter.*

All such tax collected within one mile of the corporate limits of any municipality within the state shall be remitted to such municipality; all other tax so collected shall be remitted to the county wherein collected.

The West Virginia alcohol beverage control commissioner, by appropriate rules and regulations, shall provide for the collection of taxes upon all purchases of intoxicating liquor outside the

corporate limits of any municipality from state stores or other agencies of the alcohol beverage control commissioner. The commission also is to provide for separation or proration of this tax and its distribution to the respective counties and municipalities. The tax commissioner by the appropriate rules and regulations is to provide for the collection of taxes upon all purchases of wine outside the corporate limits of any municipality from any person licensed to sell wine at retail or distribute wine under the provision of article eight, chapter sixty of this Code. The tax commissioner is also to provide for the separation or proration of this tax and its distribution to the respective counties and municipalities for which it is collected. These rules and regulations shall provide that all such taxes be deposited with the state treasurer and distributed quarterly by the treasurer upon warrants of the auditor payable to the counties and municipalities.

#### ***V. Horse and Dog Racing Tax***

Chapter 19, article 23, section 12a (4) requires any licensed thoroughbred horse racing track to pay one-tenth of one percent of the total daily pari-mutuel pool into the county treasury of the county in which the track is located if outside any incorporated municipality. In the event the track is within a municipality the one-tenth percent is paid to the municipality rather than the county.

A 1993 bill enacted by the legislature requires any race track authorized to co-mingle its pools on simulcast races to pay one-tenth of one percent of the commissions into the fund of the county in which the race track is located.

Any licensed dog racing track is required to pay one-tenth of one percent of the total daily pari-mutuel pool into the treasury of the county in which such dog racing track is located.

#### ***VI. Video Lottery Proceeds***

Chapter 29, article 22A, section 10 requires that at racetracks where video lottery terminals are located, the county where such track is located will receive 2% of the net terminal income from video lottery. Beginning July 1, 1999, and thereafter, the 2% amount received by a county will be frozen at the 1999 amount. Any amount in excess of the 1999 2% amount will be split fifty-fifty with the municipality in which the track is located, or if the track is outside the city limits, with all municipalities within the county.

#### ***VII. Limited Video Lottery Revenue***

Chapter 29, article 22B, section 1408 distributes the net terminal income generated by limited video lottery terminals. Beginning July 1, 2002, a county and the incorporated municipalities within that county shall receive two percent of the net terminal income generated by limited video lottery terminals located within the county. From this two percent of net terminal income, each municipality shall receive a share that bears the same proportion to the total two percent of net terminal income as the population of the municipality bears to the total population of the county as determined by the most recent census, and the county receives the remaining portion of the two percent.

### **VIII. WV Lottery Racetrack Table Games Revenue**

Through an affirmative vote in each county where licensed racetracks are located, WV Lottery table games were approved in West Virginia. From gross proceeds deposited into the Racetrack Table Games Fund, two percent of the adjusted gross receipts from each licensed racetrack is transferred to the county commissions of the counties where racetracks with WV Lottery table games are located, with exception of Jefferson County, where ½ of the proceeds go to the Jefferson County Board of Education for schools. Further, from the net amounts in the Racetrack Table Games Fund, ten percent is distributed in equal shares to each county commission in the state that is not eligible to receive proceeds as a track located county. Funds transferred to county commissions under this provision shall be used only to pay regional jail expenses and the costs of infrastructure improvements and other capital improvements. Up to fifty percent of these funds may be pledged to make payments on lottery revenue bonds issued pursuant to WV Code 13-2h.

### **IX. State-wide Wireless E-911 Fees**

Chapter 24, article 6, section 6b, creates a state-wide wireless enhanced 911 fee of \$3.00 per month. This state-wide fee is collected by the telephone companies, administered by the Public Service Commission and distributed based on the following: As of July 1, 2005, ten cents of the fee is given to the State Police for 911 communications equipment; one million of the remaining funds is deposited into the Enhanced 911 Wireless Tower Assistance Fund for the construction of wireless towers; as of July 1, 2006, five percent of funds are deposited into a special fund to be used solely for the construction, maintenance and upgrades of the WV interoperable Radio Project; and the remainder of funds are distributed to counties with an enhanced 911 ordinance in effect. As of July 8, 2005, when two or more counties consolidate into one county to provide government services, the consolidated county shall receive 1% of the fee revenues received by the PSC for itself and for each county merged into the consolidated county. Next, each county shall receive 8 ½ tenths of 1% of the remainder of the fee revenues received by the PSC. Finally, from any moneys remaining, each county shall receive a pro rata portion of that remainder based on that county's population as determined in the most recent decennial census as a percentage of the state total population. Funds are to be used to develop and operate enhanced 911 emergency telephone systems in the same manner as the revenues received from regular land line 911 ordinance fees

For counties without a 911 ordinance in effect, the PSC will deposit 1% of the total 911 fee revenues into an escrow account which it has established for that county to accrue interest for up to five years. At such time a county enacts a 911 ordinance, the money in the escrow account can be used as startup or seed money. A county that adopts a 911 ordinance after the effective date of this section (1/1/98) or has adopted a 911 ordinance within five years of the effect date, shall continue to receive one percent of the 911 fee revenues for a period of five years following the adoption of the ordinance and thereafter shall receive that county's portion of the fee revenue being disbursed to counties on a pro rata basis. After 5 years if the money in escrow is not used, it is redistributed to counties with 911 services and counties without 911 ordinances in effect shall start to accrue money in escrow again for five-year intervals.

## **Permissive Taxes Requiring Affirmative Action by County Commission**

### **I. *Hotel Occupancy Tax***

Chapter 7, article 18, section 1, authorizes any county or municipality to impose and collect a privilege tax upon the occupancy of hotel rooms located within its taxing jurisdiction. The county tax is imposed only by order of the county commission, duly entered of record, and is imposed only upon hotels located outside the corporate limits of a municipality. The rate of tax imposed is not more than six percent of the consideration paid for the occupancy of the hotel rooms, excluding consumers sales tax and other incidental charges. Currently, a number of counties impose the tax.<sup>2</sup> The county commission shall promulgate, by order, rule or regulation, administrative procedures for assessment, collection and refund of the tax. The sheriff of the county is the county's agent for administration and collection of the tax. Any county that has imposed this tax as of January 1, 2005, may continue to collect this tax, even if a hotel is later annexed into a city's limits. (7-18-2)

If a convention and visitors bureau is located within the county or region, the county commission must appropriate at least fifty percent of the net revenues to such convention and visitor's bureau. If no such bureau exists, any hotel may apply to the commission for a portion of the proceeds remitted by that hotel, not to exceed seventy-five percent, for use directly related to tourism and travel. The balance of the proceeds of the tax must be expended for the building and operation of convention centers, parks, recreation centers, historic sites, beautification projects, the promotion of the arts, and under certain conditions up to \$100,000 may be expended for medical care. The funds may be expended for no other purpose.

The term hotel means any facility, publicly or privately owned, in which the public may, for a consideration, obtain sleeping accommodations and includes boarding houses, hotels, motels, inns, courts, condominiums, lodges, cabins, and tourist homes. Excluded are hospitals, sanitariums, extended care facilities, nursing homes, college housing units or any facility providing fewer than three rooms in private homes.

### **Fees and Earnings of the Elected County Offices**

County clerks, circuit clerks, sheriffs, and prosecuting attorneys are authorized to charge fees for services rendered.

Chapter 59, article 1, section 10 of the code requires the county clerk to charge and collect fees, at a rate fixed by this section, for various services the clerk renders in recording, filing, and indexing certain legal documents, swearing witnesses, entering orders and transmitting papers, etc.

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<sup>2</sup>See Appendix D for a list of counties imposing the Hotel Occupancy Tax as of 2000

Chapter 59, article 1, section 11 requires the circuit clerk to charge and collect fees for certain services rendered by that office. These fees are to be paid in advance by the parties for whom the services are rendered. The services and charges for these services are set forth in chapter 59, article 1, section 11 of the code.

Chapter 59, article 1, section 14 of the code enumerates maximum amounts which the sheriff may charge for various services performed by the sheriff, including service of process. The county commission must determine the amount to be charged by the sheriff which may not exceed the maximum amounts fixed by this section. Nearly all counties have imposed the maximum rate allowable. All amounts collected by the sheriff pursuant to this section are to be deposited in a separate account of the general fund and used by the sheriff for the expenses of providing the services set forth in this section. Any surplus funds remaining in the account on the last day of the fiscal year and which have not been expended for the purposes of this section, revert to the county general fund.

Chapter 59, article 2, section 17 of the code requires that the circuit clerk include in the costs of various court proceedings certain charges for fees of the prosecuting attorney. These charges are enumerated in section 17.

Chapter 59, article 1, section 28 stipulates that the fees collected or received by the county clerk, circuit clerk, sheriff or prosecuting attorney are for the sole use of the treasury of the county in which he or she is an officer, and shall be held as public moneys belonging to the county fund and paid each month into the county treasury and credited to the general county fund.

Chapter 17A, article 3, section 17 authorizes the sheriff to receive applications from residents of the county for renewal of any Class A or G vehicle registration and issue the renewal therefor. The sheriff shall charge a service fee of one dollar for each renewal which shall be paid into the county general fund.

## **Additional County Revenue Not Under Control of County Commissions**

### **I. Sheriff's Concealed Weapons Permit Fee**

Chapter 61, Article 7, Section 4, permits the Sheriff to collect from any person applying for a license to carry a concealed weapon, a fee of sixty dollars. These fees are deposited in a concealed weapons license administration fund to pay fee costs associated with issuing concealed weapons permits. Any surplus on hand at the end of each fiscal year may be expended for other law enforcement purposes as the Sheriff may deem appropriate.

### **II. Assessor's Valuation Fund**

Additional funding for Assessor's offices is provided pursuant to the provisions of 11-1C-8 wherein there is created a revolving fund in each County to be used exclusively to fund the Assessor's office. In order to finance the ongoing extra costs associated with valuation and training mandates by law, an amount equal to 2% of the previous year's projected tax collections, or whatever percent is

approved by the Valuation Commission, from the regular levy set by, or for, the County Commission, the County School Board and any Municipality in the County, shall be prorated as to each levying body, set aside and placed in the Valuation Fund. It is further provided that on or after July 1, 1999, a Valuation fund of a County with a loan shall be continued at an annual amount not to exceed 3% as determined by the Valuation Commission, and any amounts received in excess of 2% of the collection shall be expended solely to repay the loan provided for in this section.

## **Other Revenue Sources and User Fees**

In this section we will discuss only those user fees paid into the county treasury and expended by the county commission. There are a number of user fees imposed by the county board, collected and expended by those boards which will be detailed in the chapter which deals with Boards and Commissions.

### **I. *Magistrate Court: Costs, Fines, Forfeitures, and Jail Fees***

#### **A. FINES**

Article 12, section 5 of the West Virginia Constitution provides that the net proceeds of all forfeitures and fines accruing to the state be appropriated for the support of free schools. This provision applies to magistrate courts; therefore, counties must transfer all net proceeds from the collection of magistrate fines to the state annually. However, chapter 7, article 5, section 15, enumerates a number of expenses that are to be deducted from these fines in order to arrive at that net figure. These expenses are:

- 1) cost of auditing the magistrates;
- 2) regional jail and prison development costs as provided by 50-3-4a;
- 3) costs of operating a jail prior to construction of a regional jail and funds for establishment of a jail improvement fund as provided by 7-1-9;
- 4) after a regional jail is available, regional jail per diem costs, jail improvement funds for the regional jail, and costs of operating a holding facility. 7-5-15

Any funds that have not been used for these expenses must be remitted to the state treasury by the sheriff each January.

#### **B. COSTS**

Chapter 50, article 3, section 4, of the code creates a special fund designated as the magistrate court fund into which magistrate court costs are paid. However, no more than \$15,000 per magistrate per year may be placed in the fund. All court costs collected in excess of this amount are paid into a specially created fund at the state treasurer's office. Beginning September 2001, the funds in this special account will be redistributed to underfunded counties who fail to meet the \$15,000 per magistrate cap. The first distribution from the special fund will go to counties with total cost collections of less than \$9,000. Once these counties are brought up to the \$9,000 total minimum, the remaining balance in the fund will be divided equally among underfunded counties based on their number of magistrates not to exceed the \$15,000 per magistrate cap. Once all counties are funded at \$15,000 per magistrate, any remaining balance will be remitted to the State's general revenue account.

The county commission may appropriate and spend from the magistrate court fund such sums only as may be necessary to defray the expenses of providing bailiff and service of process services by the sheriff, to pay cost of acquiring or renting magistrate court offices, and to pay the cost of utilities. In most counties, the fees generated by the magistrate court are not adequate to cover the cost of the magistrate office, and the county supplements the magistrate's office from the county general fund.

**C. OTHER FEES**

Chapter 7, article 8, section 8, provides for payment of costs for maintenance of federal prisoners by federal authorities.

Chapter 7, article 8, section 9, makes the party at whose suit any person is confined to jail under civil process responsible for the maintenance of such person during confinement.

Effective June 6, 2003, Chapter 7, Article 8, Section 14 allows the county to collect, through the court of conviction, the reasonable cost of transportation to the regional jail from the person convicted. The current mileage reimbursement rate is used.

Chapter 31, article 3, section 10b, creates the Regional Jail Operations Partial Reimbursement Fund. Revenues deposited into this fund are composed of increased court costs for criminal (\$30.00) and civil (\$20.00) proceedings in both magistrate & circuit courts. These revenues are used to reimburse incarceration costs for those counties and municipalities participating in the regional jail system. Each county's share will be comparable to the number of inmate days it contributed to the regional jail system and the number of days those inmates remained incarcerated.

Chapter 59, article 1, section 14 gives authority for the county commission to set a service of process fee up to \$25.00 that the sheriff shall charge.

Chapter 7, article 8, section 13, imposes a processing fee of \$20.00 on a person committed to a regional or county jail by order of the magistrate, circuit judge or by temporary commitment order. The fee will be collected at the time of booking. If the person is unable to pay the \$20.00 at the time of booking, the fee will be deducted at a rate of fifty percent from any new deposits made in the person's jail trust account. The fee will be credited, as appropriate, to the regional jail authority's or the county jail's operating budget. In the event the person booked is not convicted of the offense, a refund of the \$20.00 will be given.

**II. *Cable Television Franchise Fee***

County commissions and municipalities may impose a franchise fee upon cable television companies providing cable service within their jurisdiction under chapter 24D, the Cable Television Systems Act. If a municipality chooses not to franchise, then the county may franchise cable operations within the municipality. The WV Public Service Commission (PSC) is the franchising agent if the county or municipality chooses not to be.

Chapter 24D requires any person constructing, operating or acquiring a cable system or extending a cable system to first obtain a cable franchise agreement from a franchising authority. The cable

operator must pay a two hundred-fifty-dollar fee with the application for franchise to the franchising agent.

The PSC shall to the extent permitted by and not contrary to federal law, rules and regulations, prescribe standards for procedures and practices which franchising authorities shall follow in considering the issuance of cable franchises and set standards for the construction and operation of cable systems that will provide safe, adequate and reliable service to subscribers. Any cable franchise issued, may be revoked, altered or suspended by the franchising authority upon the recommendation of the PSC to a municipality or county acting as the franchising authority, or after a hearing before the franchising authority.

To the extent permitted by federal law, the PSC shall regulate rates to ensure that they are just and reasonable both to the public and to the cable operator and are not unduly discriminatory and shall regulate charges other than those related to rates for the provision of basic cable service to ensure that they are just and reasonable. The PSC shall establish a complaint process for consumers.

### **III. *County Fire Service Fee***

Chapter 7, article 17 of the code authorizes the establishment of a county fire association by the fire departments within the county. (Municipal paid fire department are excluded from membership.) The county fire association may request the county commission to appoint a county fire board which basically coordinates fire protection services. The county commission may then impose by ordinance, upon the users of fire services, reasonable fire service fees to be collected in the manner specified in the ordinance.

The fee may not be imposed unless requested by at least ten percent of the qualified voters presenting a petition so requesting. If thirty percent of the registered voters petition protesting the fee, the ordinance cannot become effective unless ratified by a majority of legal votes cast thereon at a primary, general or special election.

All fees imposed under this article are dedicated to the fire board for the purposes set forth in this article. Currently several counties have fees while others have rescinded previously enacted fees. Some counties have experienced difficulty in collecting these fees for various reasons.

Effective July 5, 2002, Chapter 7, article 1, section 3d of the Code allows county commissions to authorize volunteer fire companies or paid fire departments to charge reasonable reimbursement fees for personnel and equipment used in performing fire-fighting services, victim rescue or cleanup of debris or hazardous materials by department personnel.

The rate for any such fees to be charged to property owners or other persons responsible or liable for payment for such services must be approved by the county commission and must be reasonable and shall not exceed \$500 for any single incident or accident, except an incident or accident involving hazardous materials. The commission shall require that any fees charged must be in writing and be itemized by specific services rendered and the rate for each service.

### **III. *Emergency Ambulance Fee***

County commissions by ordinance may impose upon and collect from the users of emergency ambulance service within the county a special service fee, known as the "special emergency ambulance service fee" (chapter 7, article 15). The proceeds from the imposition and collection of any such special fee shall be deposited in a special fund and used only to pay reasonable and necessary expenses actually incurred and the cost of buildings and equipment used in providing emergency ambulance service to residents of the county. Such proceeds may be used to pay for, in whole or in part, the establishment, maintenance and operation of an authority, as provided for in this article. As with the fire service fee, collection of this fee can be difficult, partially because there are no expressed penalties involved for non-payment.

Chapter 7, article 15, section 4 requires the county commission to make available emergency ambulance service to all residents of the county where such service is not otherwise available, provided funds are available to do so. The commission may provide the service directly through its agents, servants and employees, or by its designees, or by contracting with other groups, individual associations, etc. or it may cause such services to be provided by an authority. As used in this section, "users" means any person to whom emergency ambulance service is made available under the provisions of chapter 7, article 15.

An amendment to chapter 7, article 15, section 10, effective June 10, 1999, allows emergency ambulance authorities to provide not only emergency transportation, but non-emergency transportation as well.

### **V. *Emergency Telephone Fee (E-911)***

Chapter 7, article 1, section 3cc authorizes a county commission to establish an enhanced emergency telephone system and impose a service fee upon the consumers of telephone service within the county for such system. The fee is to be used for capital, installation, and maintenance cost of the enhanced service. It may also be used to fund dispatchers.

The county commission may contract with the telephone company or companies to act as their billing agents. These fees generally run between \$ .50 - \$1.50 and are attached to all telephone subscribers' monthly bills. The establishment of an E 911 system is subject to the provisions of chapter 24, article 6 of the code<sup>3</sup>

### **VI. *Service Fee for Infrastructure Projects***

Chapter 7, article 20, sections 11 through 24 authorizes a county commission to impose, administer, collect and enforce payment of voter-approved service fees to pay for or finance the cost of special infrastructure projects within the county. It gives county commissions the authority to issue revenue bonds to finance special infrastructure projects and includes authority to issue refunding bonds, and other actions to finance and complete such projects as the county commission deems

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<sup>3</sup>See appendix-E for list of rates currently imposed.

prudent or necessary. The statute does not allow funding to cover the costs of the operation, repair, maintenance, or full replacement of capital improvements. It does include the development of water treatment and distribution facilities, wastewater treatment and disposal facilities, sanitary sewers, storm water, drainage and flood control facilities and public roads. When beginning an infrastructure project, the statute requires that the county obtain written confirmation of acceptance from the local utility that will provide the service. For example, if the project is a new roadway, confirmation must be received from the WV Department of Transportation that their agency will take the roadway into the State's highway system. Any such road must conform to their standards and they shall have plan and specification approval.

### ***VII. Interest Income***

Interest earned on county funds are governed by 7-6-5 and 59-1-37 of the code and are paid into the county general fund.

### ***VIII. Payment In Lieu of Taxes (PILT)***

The payment in lieu of taxes program was enacted by Congress in 1976 by P.L. 04-565. The program is administered by the Bureau of Land Management of the Department of Interior.

The purpose of the program is to provide payments in lieu of taxes to units of local government for certain federal lands within their boundaries. A unit of local government is defined as that type of government within the state which is the principal provider of governmental services affecting the use of entitlement lands, which in West Virginia is county government. Single purpose governments such as school boards, or special purpose units of local government are not eligible.

Payments are based on the number of acres of entitlement lands within the county and in West Virginia are made directly to the eligible county. For more information concerning this program, contact the following:

Chief Division of Finance  
Bureau of Land Management  
Denver Federal Center, Bldg. 50  
Denver, Colorado 80225-0047

## **IX. Grants**

Grants that are available to the County Commission are primarily, though not totally, federal funds that are administered through the state. A county may also be eligible for corporate or private grant money. Some grants are utilized extensively, others not at all.

Keep in mind that you are often competing for very scarce dollars. Criteria for awarding grants may include level of need, timeliness, quality of application, as well as other considerations. The Regional Planning and Development Councils can be helpful in the preparation of these grants.<sup>4</sup>

The WV Development Office administers a number of grants that are available to county government. These grants are handled through the Community Development Division and the Local Development Initiatives Division. Grants are also offered through a number of other agencies. Most grants have limited resources and the competition for funding is often very stiff.<sup>5</sup>

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<sup>4</sup>See appendix-F for council map.

<sup>5</sup>See appendix-G for grant agencies.