



## OFFICE OF THE CITY ATTORNEY

City of Charleston | P.O. Box 2749, Charleston WV 25330 | 304-348-8031  
Writer's Fax: 304-348-0770 | Writer's email: paul.ellis@cityofcharleston.org

**Paul D. Ellis**  
City Attorney of Charleston

October 1, 2014

The West Virginia Municipal Home Rule Board  
c/o Debbie Browning  
West Virginia Development Office  
Building 6, Room 553  
Charleston, WV 25305-0311

Re: City of Charleston Amendment to Ordinance

Dear Members of the Board:

The City of Charleston (the "City") is requesting your consideration and approval of an amendment to the City's sales and use tax ordinance as required by W. V. Code § 8-1-5a(b) and (i) (2013). It is our understanding that this matter has been placed on the Home Rule Board's agenda for its October 6, 2014, meeting.

As you know, on April 19, 2013, the Municipal Home Rule Board (the "Board") approved an amendment to the City's approved home rule plan to enact a consumer sales and use tax without the limiting restrictions of W. Va. Code § 8-13C-1. After receiving approval from the Board, the City enacted its sales and use tax by passage of Bill Number 7577 on May 20, 2013, effective upon passage, and set a rate of one-half of one percent. The City dedicated revenue from the sales and use tax to fund an expansion, improvement, and renovation of its Convention and Civic Center to draw more consumers to the City and promote economic development and growth. The City now seeks to amend its sales and use tax ordinance to increase the tax rate to one percent and to dedicate revenue from the additional one-half percent to assist in funding its underfunded police and fire pension plan liabilities.

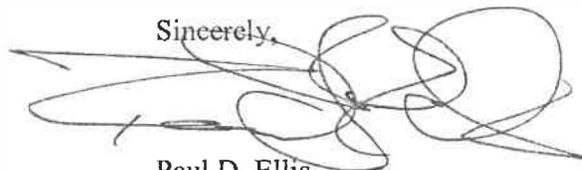
The City has determined that without this one-half percent increase and dedicated fund, the City will not be able to continue to provide desired essential services at a level necessary to accomplish the objectives to be served by an expansion, improvement, and rehabilitation of the Charleston Convention and Civic Center.

Enclosed are the following documents that set forth the City's proposed ordinance amendment and demonstrate the City's compliance with W. Va. Code § 8-1-5a related to the City's proposed amendment to its ordinance and request for approval from the Board:

- 1) A certified copy of Charleston City Council Resolution Number 499-14, passed by Council on September 15, 2014, authorizing and directing the administration to submit Bill 7633 to the Municipal Home Rule Board for approval. This resolution includes the following exhibits:
  - a. An estimated cash flow schedule for the proposed new pension reserve fund;
  - b. Confirmation of Class II legal notice publication of a notice of public hearing more than thirty days prior to the September 15, 2014, public hearing in both Charleston daily newspapers; and
  - c. A letter from the City Attorney of Charleston to the City Council certifying that the proposed amendment to the City's sales and use tax ordinance complies with W. Va. Code § 8-1-5a.
- 2) A copy of Bill 7633, a bill to amend the City's sales and use tax ordinance, including an amendment thereto proposed and recommended by the Finance Committee of the Charleston City Council, both of which were available for public inspection in the City Clerk's Office more than thirty days prior to the public hearing.
- 3) A confirmation of publication of a notice of public hearing which was published more than 30 days prior to the September 15, 2014, hearing.
- 4) An audio copy of the September 15, 2014, public hearing on Bill 7633.
- 5) A copy of a September 20, 2014, letter from Tax Commissioner Mark Matkovich to Board President Patsy Trecost indicating the State Tax Department's review of the City's proposed amendment to its sales and use tax ordinance and its approval thereof subject to the Board's approval.

As always, we appreciate the Board's expedited consideration, and will be prepared to answer any questions you may have at the October 6, 2014, meeting.

Sincerely,

A handwritten signature in black ink, appearing to be "Paul D. Ellis", written over a horizontal line.

Paul D. Ellis  
City Attorney of Charleston

PDE/sde

Enclosures

cc: Mayor Danny Jones  
David Molgaard, Charleston City Manager  
Dale Steager, Spilman, Thomas & Battle



City of Charleston  
Office of the City Clerk  
P.O. Box 2749  
Charleston, WV 25330  
(304) 348-8179

I, the undersigned City Clerk of Charleston, do hereby certify that the foregoing is a true, correct and complete copy of Resolution 499-14 enacted by the City Council of the City of Charleston on September 15, 2014.

Witness the signature of the undersigned City Clerk of the City of Charleston, West Virginia, and the seal of the City, this 17<sup>th</sup> day of September, 2014.

  
James M. Reishman  
City Clerk

Seal

**Resolution No. 499-14**

**Introduction Date:**  
**September 15, 2014**

**Adoption Date:**  
**September 15, 2014**

**Sponsors:**  
**Bobby Reishman , Mary Jean Davis**  
**Jack Harrison**

**Referred to:**  
**Finance**

**Additional Sponsors: Ed Talkington**  
**Joe Deneault, Mary Beth Hoover,**  
**Susie Salisbury, Tom Lane, John Miller,**  
**Any Richardson, Rick Burka, Jerry Ware,**  
**Bobby Haas, James Ealy, Bill Kirk, Bob White**

1 Resolution No.: 499-14 -- A Resolution authorizing and directing the administration of the City  
2 of Charleston to submit the City's proposed amendment (Bill 7633) to its sales and use tax  
3 ordinance to the Municipal Home Rule Board for their approval consistent with W. Va. Code §  
4 8-1-5a(b) and (i), and to take such further or additional action as may be required by the  
5 Municipal Home Rule Board or state law.

6  
7 WHEREAS, on April 19, 2013, pursuant to the initial Municipal Home Rule Pilot Program under  
8 W. Va. Code § 8-1-5a (2007), the Municipal Home Rule Board approved an amendment to the  
9 City of Charleston Home Rule Plan authorizing the City of Charleston ("City") to enact a  
10 consumer sales tax and use tax without the limiting restrictions of W. Va. Code § 8-13C-1 *et*  
11 *seq.*; and

12  
13 WHEREAS, on May 20, 2013, pursuant to W. Va. Code § 8-1-5a (2007), the City lawfully enacted  
14 its consumers sales and use tax by ordinance and designated a rate of one-half of one percent;  
15 and

16  
17 WHEREAS, the City has determined that it is in the best interest of the City to increase the sales  
18 and use tax rate to one percent and create a dedicated fund for the proceeds from the  
19 additional one-half percent to help defray the mounting obligations for police and fire pensions;  
20 and

21  
22 WHEREAS, based on analysis performed by the City (attached as Exhibit A hereto) on the  
23 estimated funds to be generated by the proposed one-half percent increase, the increase is  
24 estimated to fund the police and fire pension obligations for members who retire after the  
25 City's 2011 election of the conservation method through the year 2027, so that the City's  
26 general fund may continue to be used for necessary public services; and

27  
28 WHEREAS, pursuant to the W. Va. Code § 8-1-5a (2013), as amended, ordinances enacted by  
29 the four participating municipalities in the initial Home Rule Pilot Program are authorized to  
30 remain in effect, but any amendment to an ordinance enacted under home rule authority must

31 be approved by the Municipal Home Rule Board (W. Va. Code § 8-1-5a(b)) consistent with the  
32 procedures set forth in W. Va. Code § 8-1-5a(i); and

33

34 WHEREAS, on August 4, 2014, Bill Number 7633, a bill to amend the City's sales and use tax  
35 ordinance by increasing the rate by one-half percent and creating a dedicated fund for the  
36 revenue generated by the increase was introduced before the Charleston City Council; and

37

38 WHEREAS, in compliance with W. Va. Code § 8-1-5a(i), a Class II legal advertisement was  
39 published giving more than thirty (30) days notice of a Public Hearing on Bill 7633 to be held on  
40 September 15, 2014 (attached as Exhibit B hereto); and

41

42 WHEREAS, a copy of Bill 7633, along with a proposed amendment to the Bill, were made  
43 available for public inspection in the City Clerk's Office more than thirty (30) days prior to the  
44 public hearing; and

45

46 WHEREAS, a recording of the September 15, 2014, public hearing on Bill 7633 shall be  
47 submitted to the Municipal Home Rule Board; and

48

49 WHEREAS, the City Attorney has reviewed W. Va. Code § 8-1-5a, Bill 7633, along with a  
50 proposed amendment thereto, and other documents deemed necessary and has opined in a  
51 letter to City Council that the City has complied with the statutory requirements necessary for  
52 Bill 7633 to be submitted to the Municipal Home Rule Board for approval (letter attached  
53 hereto as Exhibit C);

54

55 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLESTON THAT:

56

57 The administration of the City of Charleston is hereby authorized and directed to submit the  
58 City's proposed Bill 7633, and any amendments thereto, amending its sales and use tax  
59 ordinance, along with this Resolution and attachments hereto, to the Municipal Home Rule  
60 Board for their approval consistent with W. Va. Code § 8-1-5a(b) & (i), and to take such further  
61 or additional action as may be required by the Municipal Home Rule Board or state law.

**CITY OF CHARLESTON**

**NEW PENSION RESERVE FUND**  
Cash Flow Schedule

<b>Fiscal Year</b>	<b>Sales</b>	<b>Investment</b>	<b>Pension</b>	<b>Reserve</b>
<b>Ending</b>	<b>Tax</b>	<b>Earnings</b>	<b>Costs</b>	<b>Fund</b>
<b>30-Jun</b>	<b>Revenue</b>	<b>Earnings</b>	<b>Costs</b>	<b>Balance</b>
2015	\$ -	-	\$ 2,274,803	-
2016	6,000,000	-	2,794,578	3,205,422
2017	6,150,000	96,163	3,385,357	6,066,228
2018	6,303,750	139,075	3,985,121	8,523,932
2019	6,461,344	218,852	4,563,685	10,640,442
2020	6,622,877	287,466	5,263,073	12,287,712
2021	6,788,449	343,922	6,151,752	13,268,332
2022	6,958,161	383,341	7,190,335	13,419,498
2023	7,132,115	400,317	8,262,062	12,689,868
2024	7,310,417	391,641	9,229,076	11,162,850
2025	7,493,178	357,791	10,021,324	8,992,494
2026	7,680,507	302,330	10,837,387	6,137,945
2027	7,872,520	226,957	11,671,911	2,565,511
2028	8,069,333	130,552	12,405,057	(1,639,661)

Sales Tax Annual Growth	2.5%
General Fund "Frozen" Contribution	\$ 13,740,000
Investment Return	3.0%

Prepared: August 5, 2014

Filename: Unif-Pension-Reserve-Fund-Analysis



**CHARLESTON NEWSPAPERS**

P.O. Box 2993  
Charleston, West Virginia 25330  
Billing 348-4898  
Classified 348-4848  
1-800-WVA-NEWS

Exhibit B

**LEGAL ADVERTISING INVOICE**

INVOICE DATE	08/22/14
ACCOUNT NBR	044222006
SALES REP ID	0067
INVOICE NBR	916836001

M

CITY OF CHAS.  
JAN WESTERMAN  
P.O. BOX 2749  
CHARLESTON

WV 25330 USA

R# 00162370

BILLED TO

Please return this portion with your payment.  
Make checks payable to: Charleston Newspapers

AMOUNT PAID: \_\_\_\_\_



**CHARLESTON NEWSPAPERS**

P.O. Box 2993  
Charleston, West Virginia 25330  
Billing 348-4898  
Classified 348-4848  
1-800-WVA-NEWS  
FEIN 55-0676079

INVOICE DATE	08/22/14
ACCOUNT NBR	044222006
SALES REP ID	0067
INVOICE NBR	916836001

Legal pricing is based upon 63 words per column inch.

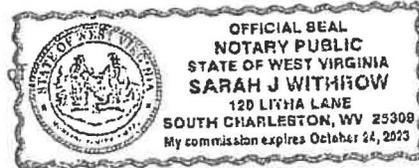
Each successive insertion is discounted by 25% of the first insertion rate.

The Daily Mail rate is \$.13 per word, the Charleston Gazette rate is \$.14 per word, and the Metro Putnam rate is \$.13 per word.

ISSUE DATE	AD TYPE	PUB	DESCRIPTION	AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
08/14	LEGF	GZ	8/14, 8/21 BILL 7633 916836001	0572683	1X0375	8.82	33.08	33.08
08/14	LEGF	DM	8/14, 8/21 BILL 7633 916836002		1X0375	8.19	30.71	30.71
08/21	LEGR	GZ	8/14, 8/21 BILL 7633 916836003		1X0375	8.82	33.08	33.08
			LEGAL DISCOUNT 25%				8.27-	24.81
08/21	LEGR	DM	8/14, 8/21 BILL 7633		1X0375			

**AFFIDAVIT OF PUBLICATION**

*[Faded text of the affidavit form, including fields for newspaper name, date, and publisher.]*



... respective newspaper(s) and during the dates listed below:

Subscribed and sworn to before me this 25 day of August, 2014

*[Signature of Notary Public Sarah J. Withrow]*  
Notary Public of Kanawha County, West Virginia

Billing 348-4898  
 Classified 348-4848  
 1-800-WVA-NEWS

INVOICE DATE	08/22/14
ACCOUNT NBR	044222006
SALES REP ID	0067
INVOICE NBR	916836001

M

R# 00162370

BILLED TO

CITY OF CHAS.  
 JAN WESTERMAN  
 P.O. BOX 2749  
 CHARLESTON

WV 25330 USA

Please return this portion with your payment.  
 Make checks payable to: Charleston Newspapers

AMOUNT PAID: \_\_\_\_\_



**CHARLESTON NEWSPAPERS**

P.O. Box 2993  
 Charleston, West Virginia 25330  
 Billing 348-4898  
 Classified 348-4848  
 1-800-WVA-NEWS  
 FEIN 55-0676079

INVOICE DATE	08/22/14
ACCOUNT NBR	044222006
SALES REP ID	0067
INVOICE NBR	916836001

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ISSUE DATE	AD TYPE	PUB	DESCRIPTION		AD NUMBER	AD SIZE		RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR	PURCHASE ORDER #		TOTAL RUN				
08/14	LEGF	GZ	8/14, 8/21	BILL 7633	0572683	1X0375				
				916836001		3.75	8.82	33.08	33.08	
08/14	LEGF	DM	8/14, 8/21	BILL 7633		1X0375				
				916836002		3.75	8.19	30.71	30.71	
08/21	LEGR	GZ	8/14, 8/21	BILL 7633		1X0375				
				916836003		3.75	8.82	33.08	33.08	
				LEGAL DISCOUNT 25%				8.27-		.24-.81
08/21	LEGR	DM	8/14, 8/21	BILL 7633		1X0375				

State of West Virginia, **AFFIDAVIT OF PUBLICATION**

*Susi R. Frywater*



I do solemnly swear that the legal notice of:

was duly published in said newspaper(s) at the stated price for the respective newspaper(s) and during the dates listed below:

Subscribed and sworn to before me this 25th day of August, 2014

*Sarah J. Witrow*  
 Notary Public of Kanawha County, West Virginia



**CHARLESTON NEWSPAPERS**

P.O. Box 2993  
Charleston, West Virginia 25330  
Billing 348-4898  
Classified 348-4848  
1-800-WVA-NEWS

**LEGAL ADVERTISING INVOICE**

INVOICE DATE	08/22/14
ACCOUNT NBR	044222006
SALES REP ID	0067
INVOICE NBR	916836001

M

BILLED TO

CITY OF CHAS.  
JAN WESTERMAN  
P.O. BOX 2749  
CHARLESTON

WV 25330 USA

Please return this portion with your payment.  
Make checks payable to: Charleston Newspapers

AMOUNT PAID: \_\_\_\_\_



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ISSUE DATE	AD TYPE	PUB	DESCRIPTION	AD NUMBER	AD SIZE	RATE	CHARGE AMOUNT	NET AMOUNT
			LEGAL DISCOUNT 25%		3.75	8.19	30.71 7.68-	23.03
			TOTAL INVOICE AMOUNT					111.63

State of West Virginia, **AFFIDAVIT OF PUBLICATION**

I, \_\_\_\_\_ of  
THE CHARLESTON GAZETTE,  
THE DAILY MAIL,  
do solemnly swear that the legal notice of:  
8/14, 8/21 BILL 7633

was duly published in said newspaper(s) at the stated price for the respective newspaper(s) and during the dates listed below:  
08/14/14-08/21/14

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public of Kanawha County, West Virginia



## OFFICE OF THE CITY ATTORNEY

City of Charleston | P.O. Box 2749, Charleston WV 25330 | 304-348-8031  
Writer's Fax: 304-348-0770 | Writer's email: paul.ellis@cityofcharleston.org

**Paul D. Ellis**  
**City Attorney of Charleston**

September 15, 2014

To the Council of the City of Charleston

Re: Amendment to City of Charleston Sales and Use Tax Ordinance

Ladies and Gentlemen:

In April of 2013, the City of Charleston requested and received permission from the Municipal Home Rule Board to amend its Municipal Home Rule plan pursuant to W. Va. Code § 8-1-5a (2007) to enable the City to enact a municipal sales and use tax without having to comply with the requirements of W. Va. State Code § 8-13C-1 *et seq.* The City enacted its sales and use tax at a rate of one-half of one percent on May 20, 2013, pursuant to its authority under W. Va. Code § 8-1-5a (2007).

Effective July 1, 2013, the legislature amended and re-enacted W. Va. Code § 8-1-5a, which is the statute governing the Municipal Home Rule pilot project. Under the re-enacted W. Va. § 8-1-5a (2013), any amendments to ordinances enacted by participating cities pursuant to Home Rule authority must be submitted to the Municipal Home Rule Board for approval. (W. Va. Code § 8-1-5a(b)).

As City Attorney of the City of Charleston, I have reviewed West Virginia Code §8-1-5a, Bill Number 7633, along with a proposed amendment thereto, and other documents related thereto as I have deemed necessary for the purposes of this opinion.

Based upon the examination of such documents and my understanding of the intent of the proposed amendment to the City's sales and use tax ordinance, it is my opinion that Bill Number 7633, and the proposed amendment thereto, are permitted under the City's Home Rule Plan as amended in 2013, do not violate the requirements of W. Va. Code § 8-1-5a<sup>1</sup>, and the City has

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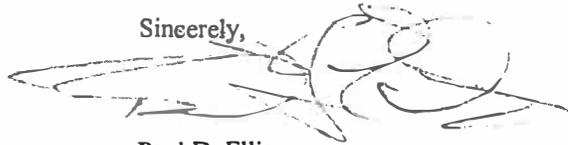
<sup>1</sup> Although re-enacted W. Va. Code § 8-1-5a (2013) includes a new provision that requires a reduction or elimination of B&O taxes in conjunction with the enactment of a municipal sales and use tax, the City is not enacting a sales and use tax; it is merely amending its sales and use tax ordinance enacted May 20, 2013, under its existing home rule plan previously approved pursuant to W. Va. Code § 8-1-5a (2007). Further, re-enacted W. Va. Code § 8-1-5a (2013) does not impose any B&O reduction/elimination requirements for a *rate increase* of a municipal sales and use tax that is already approved and in effect. Notwithstanding, in conjunction with the May 20, 2013, enactment of the City's municipal sales and use tax pursuant to W. Va. Code § 8-1-5a (2007), the City eliminated its B&O tax on manufacturing within the City by passage of Bill 7578 on May 20, 2013.

followed the statutory procedural requirements for the proposed amendment to the City's existing sales and use tax ordinance in that:

1. At least 30 days notice of the September 15, 2014, public hearing on Bill 7633 was provided by publication of a Class II legal advertisement in the Charleston Gazette and the Charleston Daily Mail newspapers;
2. A copy of Bill 7633, along with a proposed amendment thereto, were made available for public inspection more than thirty days prior to the public hearing;
3. The City has noticed and included on the September 15, 2014, City Council Agenda, a public hearing on Bill 7633, and, based on information and belief, the public hearing will be recorded and a copy of that recording will be made for submission to the Municipal Home Rule Board.

The Council of the City of Charleston may rely upon this opinion.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul D. Ellis", with a large, stylized flourish extending to the left.

Paul D. Ellis  
City Attorney of Charleston

PDE/sde

cc: Mayor Danny Jones  
David Molgaard, Charleston City Manager

**COMMITTEE REPORT**

**TO: Clerk of the Council of the City of Charleston, West Virginia**

**FROM: The Committee on FINANCE**

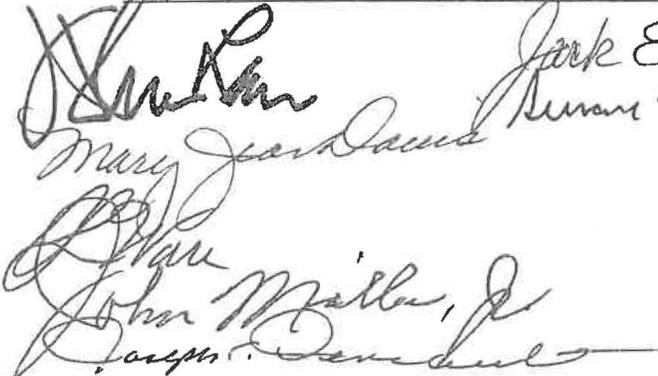
Your Committee on Finance

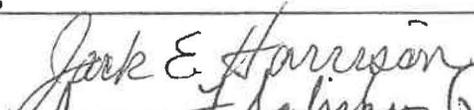
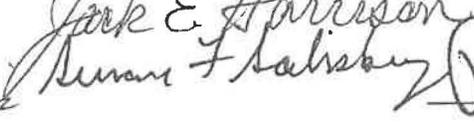
has had under consideration: Bill No. 7633, amending sections of Chapter 111 of the Code of the City of Charleston increasing the rate of the Municipal Sales and Use Tax and creating the Uniform Pensions Reserve Fund, a special revenue fund dedicated to Police and Fire pension obligations. The Bill was amended as follows:

1. On line 76, strike the date July 1, 2015, and replace it with the date September 30, 2015.
2. On line 76, after the substituted date of September 30, 2015, (See No. 1 above) add the following:  
"During the period of October 1 through October 31, 2015, or at such other time as the city treasurer receives the quarterly remittance from the State Tax Department representing collections for the period of June, July, and August, 2015, sixty percent (60%) of the revenues received from the taxes imposed by this chapter, including interest and additions to tax, shall be deposited in the City Sales and Use Tax Fund and forty percent (40%) of the revenues shall be deposited in the Uniform Pensions Reserve Fund."
3. On line 76, after the word "Beginning" strike the date July 1, 2015, and replace it with the date November 1, 2015.
4. Beginning on line 101 and continuing on to line 102, strike the words "as a result of electing", and replace with the words "for those members who have retired after election of".

and reports the same to Council with the recommendation that the

Bill, as amended, do pass

  
Mary Jean Davis  
John Miller, Jr.  
Joseph [unclear]

  
Jack E. Harrison  
  
Anne Flaherty  
  
CHAIRMAN



**Bill No: 7633**

**Introduction Date:**  
**August 4, 2014**

**Adoption Date:**

**Sponsors:**  
**Bobby Reishman , Mary Jean Davis**  
**Jack Harrison**

**Referred to:**  
**Finance**

**Additional Sponsors: Ed Talkington**  
**Joe Deneault, Mary Beth Hoover,**  
**Susie Salisbury, Tom Lane, John Miller,**  
**Any Richardson, Rick Burka, Jerry Ware,**  
**Bobby Haas, James Ealy, Bill Kirk, Bob White**

1 Bill No. 7633: An ordinance amending Sections 111-3, 111-4, 111-14 and 111-15 of Chapter  
2 111 of the Code of the City of Charleston increasing the rate of the municipal sales and use tax  
3 and creating the Uniform Pensions Reserve Fund, a special revenue fund dedicated to police  
4 and fire pension obligations.

5  
6 WHEREAS, on April 19, 2013, pursuant to the initial Municipal Home Rule Pilot Program under  
7 W. Va. Code § 8-1-5a (2007), the Municipal Home Rule Board approved an amendment to the  
8 City of Charleston Home Rule Plan authorizing the City of Charleston ("City") to enact a  
9 consumer sales tax and use tax without the limiting restrictions of W. Va. Code § 8-13C-1 *et*  
10 *seq.*; and

11  
12 WHEREAS, on May 20, 2013, the City lawfully enacted its consumers sales and use tax by  
13 ordinance and designated a rate of one-half of one percent; and

14  
15 WHEREAS, the City's consumers sales and use taxes have been collected by vendors and paid by  
16 taxpayers since October 1, 2013, and revenues from those taxes have been deposited in a  
17 special revenue fund, known as the "City Sales and Use Tax Fund", dedicated to financing  
18 improvements to the Charleston Convention and Civic Center or for other related/subsequent  
19 economic development or public safety projects. The "City Sales and Use Tax Fund" is not part  
20 of the general revenues of the City; and

21  
22 WHEREAS, the City has determined that it is in the best interest of the City to increase the sales  
23 and use tax rate to one percent to help defray the mounting obligations for police and fire  
24 pensions that are threatening the City's ability: to provide essential services at a level necessary  
25 to accomplish the objectives to be served by an expansion, improvement and rehabilitation of  
26 the Charleston Convention and Civic Center; to operate and maintain the expansion and  
27 improvements to the Charleston Convention and Civic Center; to attract more residents and  
28 visitors to the City; and to facilitate economic development and growth within the City; and

29

30 WHEREAS, pursuant to the W. Va. Code § 8-1-5a, as amended, ordinances enacted by the four  
31 participating municipalities in the initial Home Rule Pilot Program are authorized to remain in  
32 effect (W. Va. Code § 8-1-5a(b)), but any amendment thereto must be approved by the  
33 Municipal Home Rule Board consistent with the procedures set forth in W. Va. Code § 8-1-5a(i);  
34

35 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLESTON THAT:  
36

37 Sections 111-3, 111-4, 111-14 and 111-15 of Chapter 111 of the Code of the City of Charleston  
38 are hereby amended to read as follows:  
39

40 **Chapter 111. CONSUMERS SALES AND USE TAXES**

41  
42 **Section 111-3. Imposition of consumers sales and service tax.**  
43

44 For the privilege of selling tangible personal property or customer software and for the  
45 privilege of furnishing certain selected services, a vendor doing business in this city shall collect  
46 from the purchaser the taxes imposed by this section and pay the amount of taxes collected to  
47 the tax commissioner at the same time and in the same manner as the consumers sales and  
48 service tax imposed by article fifteen, chapter eleven of the Code of West Virginia, 1931, as  
49 amended. The rate of tax shall be one-half of one percent of the sales price, as defined in  
50 section two, article fifteen-b, chapter eleven of the Code of West Virginia, 1931, as amended, of  
51 the tangible personal property, custom software or taxable service purchased: Provided, That  
52 for sales of tangible personal property, custom software and taxable services made on and after  
53 July 1, 2015, the rate of tax imposed by this section shall be one percent of the sales price.  
54

55 **Section 111-4. Imposition of use tax.**  
56

57 An excise tax is hereby levied and imposed on the use in this city of tangible personal  
58 property, custom software and the results of taxable services, to be collected and paid to the  
59 tax commissioner as agent for the city in the same manner that state use tax is collected under  
60 article fifteen-a and article fifteen-b, chapter eleven of the Code of West Virginia, 1931, as  
61 amended. The rate of tax shall be one-half of one percent of the purchase price, as defined in  
62 article fifteen-b, chapter eleven of the Code of West Virginia, of the tangible personal property,  
63 custom software or taxable service used within the city: Provided, That for tangible personal  
64 property, custom software and the results of taxable service used in the City of Charleston on  
65 and after July 1, 2015, the rate of tax imposed by this section shall be one percent of the  
66 purchase price.  
67

68 **Section 111-14. Deposit of taxes collected in special revenue funds.**  
69

70 (a) The special revenue fund in the City treasury previously established, designated and  
71 known as the City Sales and Use Tax Fund is hereby continued. There is hereby established a  
72 second special revenue fund in the city treasury, which shall be designated and known as the  
73 city sales and use tax fund Uniform Pensions Reserve Fund. The eCity sSales and uUse tTax

74 | ~~Fund shall consist of (1) continue to receive all revenues received from collection of the city's~~  
75 | ~~sales and use taxes, including any interest, additions to tax and penalties deposited with the~~  
76 | ~~city treasurer; until July 1, 2015. Beginning July 1, 2015, one-half (50%) of the revenues received~~  
77 | ~~from the taxes imposed by this chapter, including interest and additions to tax, shall be~~  
78 | ~~deposited in the City Sales and Use Tax Fund and the second half (50%) of the revenues shall be~~  
79 | ~~deposited in the Uniform Pensions Reserve Fund. Additionally, there shall be deposited in each~~  
80 | ~~Fund: (2)(1) all appropriations to the particular fund; (3)(2) all interest earned from investment~~  
81 | ~~of the particular fund; and (4)(3) any gifts, grants or contributions received and placed by the~~  
82 | ~~city into the eCity sSales and uUse tTax accountFund or the Uniform Pensions Reserve Fund.~~  
83 | ~~Revenues in the eCity sSales and uUse tTax fFund and the Uniform Pensions Reserve Fund shall~~  
84 | ~~not be treated by any person to be a as general revenue of the city. Revenues in the eCity~~  
85 | ~~sSales and uUse tTax fFund shall be disbursed in the manner and consistent with the priorities~~  
86 | ~~set forth for in subsection (b) below. Revenues in the Uniform Pensions Reserve Fund shall be~~  
87 | ~~disbursed in the manner and consistent with the priorities set forth in subsection (c) below.~~  
88 |

89 | (b) Revenues in the eCity sSales and uUse tTax fFund shall be used: (i) first, to satisfy the  
90 | debt service requirements each fiscal year on any bonds issued by, or other obligations incurred  
91 | by, the City, from time to time, including any refunding bonds, to finance improvements to the  
92 | Charleston Convention and Civic Center and for any other economic development or public  
93 | safety projects, including the funding of any reserve funds relating to any such bonds or other  
94 | obligations, and/or to make lease payments which secure bonds issued to finance  
95 | improvements to such convention and civic center or other economic development projects;  
96 | and (ii) second, after providing for payment of first priority items, any unencumbered revenue  
97 | in the eCity sSales and uUse tTax fFund may periodically be transferred as necessary or  
98 | convenient to the city's general revenue account.  
99 |

100 | (c) Revenues in the Uniform Pensions Reserve Fund shall be used: (i) first, to satisfy the  
101 | balance of the benefit obligations imposed and assumed by the City on a pay-as-you-go basis as  
102 | a result of electing the conservation method set forth in W.Va. Code 8-22-20(f) after first  
103 | applying the member contributions and premium tax proceeds not required to be retained in  
104 | the closed trusts pursuant to W.Va. Code 8-22-20(f)(2), and any other dedicated or designated  
105 | income sources as authorized by law, to any such obligations; (ii) second, after providing for  
106 | payment of first priority items, to satisfy the city's obligations to the Municipal Police Officers  
107 | and Firefighters Retirement System for the new members hired after adoption of the  
108 | conservation method as provided by W.Va. Code 8-22-20(f)(3) and 8-22a-1, et. seq.; and (iii)  
109 | third, at such time as the actuarial report required by W.Va. Code 8-22-20(f) indicates no  
110 | actuarial deficiency in the closed municipal policemen's or firemen's pension and relief funds,  
111 | and after providing for payment of first and second priority items and normal costs as  
112 | contemplated by W.Va. Code 8-22-20(f)(4), any remaining and unencumbered revenues may be  
113 | transferred as necessary or convenient to the city's general revenue account; *Provided:* nothing  
114 | herein shall preclude transfers from the Uniform Pensions Reserve Fund into the city's general  
115 | revenue account or any other fund or account from time to time in such amounts as may be  
116 | necessary or convenient to facilitate the payment of obligations or to accomplish the purposes  
117 | herein, so long as consistent with the priorities set forth in this subsection.

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**Section 111-15. Effective date.**

~~The ordinance from which this chapter derives shall take~~ This chapter was adopted by  
~~City Council on May 20, 2013 and took effect from its adoption by city council as~~  
~~provided in Section 41 of the charter of this city. By ordinance, the City suspended the~~  
~~collection of the sales and use taxes until the State Tax Commissioner could provide~~  
~~appropriate notice and lawfully collect the sales and use taxes on behalf of the City. The~~  
~~State Tax Commissioner began collection of the sales and use taxes authorized by this~~  
~~chapter on October 1, 2013. Upon its adoption, the City attorney shall forthwith provide~~  
~~the tax commissioner with a certified copy of this ordinance along with a description of~~  
~~the boundaries of the city, the nine digit zip codes for addresses located within the~~  
~~boundaries of the city and such other information as the tax commissioner may need to~~  
~~administer, collect and enforce the taxes imposed by this chapter. Notwithstanding the~~  
~~fact that the ordinance from which this chapter derives is effective upon its adoption,~~  
~~collection by vendors of the taxes imposed by this chapter and payment of those taxes~~  
~~by purchasers is initially suspended and shall begin and first apply to sales and~~  
~~purchases made on and after the first day of the calendar quarter that begins at least 60~~  
~~days after the tax commissioner first notifies vendors, as provided in W. Va. Code § 11-~~  
~~15B-35, of the adoption of this ordinance and their obligation to collect and remit the~~  
~~taxes imposed by this chapter, except that both collection and payment of the tax on~~  
~~sales made by catalogue is initially suspended and shall first apply to sales and~~  
~~purchases made by catalogue on and after the first day of the calendar quarter that~~  
~~begins at least 120 days after vendors making catalogue sales are first notified, as~~  
~~provided in W. Va. Code § 11-15B-35, of the adoption the ordinance from which this~~  
~~chapter derives and their obligation to collect and remit the taxes imposed by this~~  
~~chapter. All businesses selling tangible personal property or furnishing services subject~~  
~~to the tax imposed by this chapter on and after the first day of the calendar quarter on~~  
~~which collection begins shall, on and after that day, collect and remit the taxes imposed~~  
~~by this chapter whether or not they received notice from the tax commissioner under~~  
~~W. Va. Code § 11-15B-35.~~

BE IT FURTHER ORDAINED that this ordinance amending Sections 111-3, 111-4, 111-14 and 111-15 of Chapter 111 of the Code of the City of Charleston shall take effect from its adoption as provided in Section 41 of the charter of this City subject to the internal effective dates specified in this ordinance. Upon its adoption, the City Attorney shall forthwith provide the West Virginia State Tax Commissioner with a certified copy of this ordinance and the administration of the City is hereby authorized and directed to take all necessary action to implement the provisions of this ordinance.



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 1-800-WVA-NEWS

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ACCOUNT NBR	044222006
SALES REP ID	0067
INVOICE NBR	916836001

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SALES REP ID	0067
INVOICE NBR	916836001

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ISSUE DATE	AD TYPE	PUB	DESCRIPTION		AD NUMBER	AD SIZE		RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR	PURCHASE ORDER #		TOTAL RUN				
08/14	LEGF	GZ	8/14, 8/21	BILL 7633	0572683	1X0375				
				916836001		3.75	8.82	33.08	33.08	
08/14	LEGF	DM	8/14, 8/21	BILL 7633		1X0375				
				916836002		3.75	8.19	30.71	30.71	
08/21	LEGR	GZ	8/14, 8/21	BILL 7633		1X0375				
				916836003		3.75	8.82	33.08	33.08	
				LEGAL DISCOUNT 25%				8.27-		.24.81
08/21	LEGR	DM	8/14, 8/21	BILL 7633		1X0375				

State of West Virginia,

**AFFIDAVIT OF PUBLICATION**

*Susi R. Fitzwater*

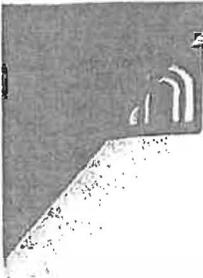


I do solemnly swear that the legal notice of:

was duly published in said newspaper(s) at the stated price for the respective newspaper(s) and during the dates listed below:

Subscribed and sworn to before me this 25<sup>th</sup> day of August, 2014

*Sarah J. Witrow*  
 Notary Public of Kanawha County, West Virginia



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**LEGAL ADVERTISING INVOICE**

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ACCOUNT NBR	044222006
SALES REP ID	0067
INVOICE NBR	916836001

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INVOICE DATE	08/22/14
ACCOUNT NBR	044222006
SALES REP ID	0067
INVOICE NBR	916836001

Legal pricing is based upon 63 words per column inch.  
Each successive insertion is discounted by 25% of the first insertion rate.

The Daily Mail rate is \$.13 per word, the Charleston Gazette rate is \$.14 per word, and the Metro Putnam rate is \$.13 per word.

ISSUE DATE	AD TYPE	PUB	DESCRIPTION	AD NUMBER	AD SIZE	RATE	GROSS AMOUNT	NET AMOUNT
			REFERENCE NBR: PURCHASE ORDER #:					
			916836004		3.75	8.19	30.71	
			LEGAL DISCOUNT 25%				7.68-	23.03
			TOTAL INVOICE AMOUNT					111.63

State of West Virginia, **AFFIDAVIT OF PUBLICATION**

I, \_\_\_\_\_ of  
 THE CHARLESTON GAZETTE,  
 THE DAILY MAIL,  
 do solemnly swear that the legal notice of:  
 8/14, 8/21 BILL 7633

was duly published in said newspaper(s) at the stated price for the respective newspaper(s) and during the dates listed below:  
08/14/14-08/21/14

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public of Kanawha County, West Virginia



## STATE OF WEST VIRGINIA

Department of Revenue  
State Tax Department

Earl Ray Tomblin  
Governor

Mark W. Matkovich  
State Tax Commissioner

September 30, 2014

The Honorable Patsy Trecost II, Chair  
Municipal Home Rule Board  
c/o West Virginia Development Office  
Building 6, Room 553  
State Capital Complex  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0311

Re: City of Charleston's proposed amendments to its sales and use tax ordinance

Dear Chairman Trecost:

I am writing to you regarding an inquiry and request by the City of Charleston, West Virginia, (hereinafter "City") regarding its proposal to amend its sales and use tax (hereinafter "sales tax") ordinance imposed pursuant to W. Va. Code § 8-1-5a, to increase the rate of its sales tax from one-half of one percent to one percent effective July 1, 2015.

The sales tax imposed by the City has been collected by the State Tax Department since October 1, 2013. There have not been any notable problems with administration, collection and enforcement of the sales tax or with remittance of the collected tax to the City. Since the sales tax was implemented, the City and the State Tax Department have communicated regularly and have successfully cooperated on all aspects of collection and remittance of the City's sales tax.

The City is now proposing to amend its sales tax ordinance by increasing the rate of tax from one-half of one percent to one percent, effective July 1, 2015, which rate is consistent with the sales and use tax rates proposed in the written plans of other municipalities in Kanawha County, West Virginia, that have applied to the Municipal Home Rule Board to participate in Phase II of the Municipal Home Rule Pilot Program.

We have reviewed the City's proposed amendments to its sales and use tax ordinance that will be adopted by the City, provided the amendments are approved by the Municipal Home Rule Board consistent with W. Va. Code § 8-1-5a(i), and have no problem with the proposed language contained in the amendments.

In summary, the State Tax Department will be able to administer, collect and enforce the sales tax as set forth in the proposed amendments to the City's ordinance. This office takes no position on the policy decisions embodied in the proposed amendments – to increase the rate of the sales tax and to expend the additional revenue generated by the rate increase to pay the City's liabilities for its underfunded police and fire pensions. These policy decisions are vested in the elected officials of the City of Charleston, subject to approval by this Board of amendments to the City's sales tax ordinance.

Please let me know if you have any questions or if I may be of any assistance to the Board.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mark W. Matkovich', with a long horizontal flourish extending to the right.

Mark W. Matkovich  
Tax Commissioner

cc: Danny Jones, Mayor, City of Charleston