

1 **H. B. 2244**

2  
3 (By Delegates Overington, Duke and J. Miller)  
4 [Introduced January 12, 2011; referred to the  
5 Committee on Political Subdivisions then the Judiciary.]  
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10 A BILL to amend and reenact §16-13A-3 of the Code of West Virginia,  
11 1931, as amended, relating to changing the board members of  
12 public service districts terms from six years to three years.

13 *Be it enacted by the Legislature of West Virginia:*

14 That §16-13A-3 of the Code of West Virginia, 1931, as amended,  
15 be amended and reenacted to read as follows:

16 **ARTICLE 13A. PUBLIC SERVICE DISTRICTS.**

17 **§16-13A-3. District to be a public corporation and political**  
18 **subdivision; powers thereof; public service boards.**

19 From and after the date of the adoption of the order creating  
20 any public service district, it is a public corporation and  
21 political subdivision of the state, but without any power to levy  
22 or collect ad valorem taxes. Each district may acquire, own and  
23 hold property, both real and personal, in its corporate name, and

1 may sue, may be sued, may adopt an official seal and may enter into  
2 contracts necessary or incidental to its purposes, including  
3 contracts with any city, incorporated town or other municipal  
4 corporation located within or without its boundaries for furnishing  
5 wholesale supply of water for the distribution system of the city,  
6 town or other municipal corporation, or for furnishing stormwater  
7 services for the city, town or other municipal corporation, and  
8 contract for the operation, maintenance, servicing, repair and  
9 extension of any properties owned by it or for the operation and  
10 improvement or extension by the district of all or any part of the  
11 existing municipally owned public service properties of any city,  
12 incorporated town or other municipal corporation included within  
13 the district: *Provided*, That no contract shall extend beyond a  
14 maximum of forty years, but provisions may be included therein for  
15 a renewal or successive renewals thereof and shall conform to and  
16 comply with the rights of the holders of any outstanding bonds  
17 issued by the municipalities for the public service properties.

18       The powers of each public service district shall be vested in  
19 and exercised by a public service board consisting of not less than  
20 three members, who shall be persons residing within the district,  
21 who possess certain educational, business or work experience which  
22 will be conducive to operating a public service district. Each  
23 board member shall, within six months of taking office,  
24 successfully complete the training program to be established and

1 administered by the Public Service Commission in conjunction with  
2 the Division of Environmental Protection and the Bureau of Public  
3 Health. Board members shall not be or become pecuniarily  
4 interested, directly or indirectly, in the proceeds of any contract  
5 or service, or in furnishing any supplies or materials to the  
6 district nor shall a former board member be hired by the district  
7 in any capacity within a minimum of twelve months after board  
8 member's term has expired or such board member has resigned from  
9 the district board. The members shall be appointed in the  
10 following manner:

11 Each city, incorporated town or other municipal corporation  
12 having a population of more than three thousand but less than  
13 eighteen thousand is entitled to appoint one member of the board,  
14 and each city, incorporated town or other municipal corporation  
15 having a population in excess of eighteen thousand shall be  
16 entitled to appoint one additional member of the board for each  
17 additional eighteen thousand population. The members of the board  
18 representing such cities, incorporated towns or other municipal  
19 corporations shall be residents thereof and shall be appointed by  
20 a resolution of the governing bodies thereof and upon the filing of  
21 a certified copy or copies of the resolution or resolutions in the  
22 office of the clerk of the county commission which entered the  
23 order creating the district, the persons so appointed become  
24 members of the board without any further act or proceedings. If

1 the number of members of the board so appointed by the governing  
2 bodies of cities, incorporated towns or other municipal  
3 corporations included in the district equals or exceeds three, then  
4 no further members shall be appointed to the board and the members  
5 so appointed are the board of the district except in cases of  
6 merger or consolidation where the number of board members may equal  
7 five.

8       If no city, incorporated town or other municipal corporation  
9 having a population of more than three thousand is included within  
10 the district, then the county commission which entered the order  
11 creating the district shall appoint three members of the board, who  
12 are persons residing within the district and residing within the  
13 State of West Virginia, which three members become members of the  
14 board of the district without any further act or proceedings except  
15 in cases of merger or consolidation where the number of board  
16 members may equal five.

17       If the number of members of the board appointed by the  
18 governing bodies of cities, incorporated towns or other municipal  
19 corporations included within the district is less than three, then  
20 the county commission which entered the order creating the district  
21 shall appoint such additional member or members of the board, who  
22 are persons residing within the district, as is necessary to make  
23 the number of members of the board equal three except in cases of  
24 merger or consolidation where the number of board members may equal

1 five, and the member or members appointed by the governing bodies  
2 of the cities, incorporated towns or other municipal corporations  
3 included within the district and the additional member or members  
4 appointed by the county commission as aforesaid, are the board of  
5 the district. A person may serve as a member of the board in one  
6 or more public service districts.

7       The population of any city, incorporated town or other  
8 municipal corporation, for the purpose of determining the number of  
9 members of the board, if any, to be appointed by the governing body  
10 or bodies thereof, is the population stated for such city,  
11 incorporated town or other municipal corporation in the last  
12 official federal census.

13       Notwithstanding any provision of this code to the contrary,  
14 whenever a district is consolidated or merged pursuant to section  
15 two of this article, the terms of office of the existing board  
16 members shall end on the effective date of the merger or  
17 consolidation. The county commission shall appoint a new board  
18 according to rules promulgated by the Public Service Commission.  
19 Whenever districts are consolidated or merged no provision of this  
20 code prohibits the expansion of membership on the new board to  
21 five.

22       The respective terms of office of the members of the first  
23 board shall be fixed by the county commission and shall be as  
24 equally divided as may be, that is approximately one third of the

1 members for a term of two years, a like number for a term of four  
2 years, the term of the remaining member or members for ~~six~~ three  
3 years, from the first day of the month during which the  
4 appointments are made. The first members of the board appointed as  
5 aforesaid shall meet at the office of the clerk of the county  
6 commission which entered the order creating the district as soon as  
7 practicable after the appointments and shall qualify by taking an  
8 oath of office: *Provided*, That any member or members of the board  
9 may be removed from their respective office as provided in section  
10 three-a of this article.

11 Any vacancy shall be filled for the unexpired term within  
12 thirty days, otherwise successor members of the board shall be  
13 appointed for terms of ~~six~~ three years and the terms of office  
14 shall continue until successors have been appointed and qualified.  
15 All successor members shall be appointed in the same manner as the  
16 member succeeded was appointed. The district shall provide to the  
17 Public Service Commission, within thirty days of the appointment,  
18 the following information: The new board member's name, home  
19 address, home and office phone numbers, date of appointment, length  
20 of term, who the new member replaces and if the new appointee has  
21 previously served on the board. The Public Service Commission  
22 shall notify each new board member of the legal obligation to  
23 attend training as prescribed in this section.

24 The board shall organize within thirty days following the

1 first appointments and annually thereafter at its first meeting  
2 after January 1 of each year by selecting one of its members to  
3 serve as chair and by appointing a secretary and a treasurer who  
4 need not be members of the board. The secretary shall keep a  
5 record of all proceedings of the board which shall be available for  
6 inspection as other public records. Duplicate records shall be  
7 filed with the county commission and shall include the minutes of  
8 all board meetings. The treasurer is lawful custodian of all funds  
9 of the public service district and shall pay same out on orders  
10 authorized or approved by the board. The secretary and treasurer  
11 shall perform other duties appertaining to the affairs of the  
12 district and shall receive salaries as shall be prescribed by the  
13 board. The treasurer shall furnish bond in an amount to be fixed  
14 by the board for the use and benefit of the district.

15 The members of the board, and the chair, secretary and  
16 treasurer thereof, shall make available to the county commission,  
17 at all times, all of its books and records pertaining to the  
18 district's operation, finances and affairs, for inspection and  
19 audit. The board shall meet at least monthly.

NOTE: The purpose of this bill is to change the term of board members of public service districts from six years to three years.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.