

1 **H. B. 2663**

2
3 (By Delegates Moye, T. Campbell, Manchin,
4 Shaver, Stephens, Barker, M. Poling and Doyle)

5
6 [Introduced January 20, 2011; referred to the
7 Committee on the Judiciary.]

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10 A BILL to amend and reenact §24-1-3 of the Code of West Virginia,
11 1931, as amended, relating to requiring at least one
12 commissioner be present before a hearing may be conducted on
13 public utility matters that require a public hearing before
14 the commissioners of the Public Service Commission; and
15 deleting obsolete language.

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

17 That §24-1-3 of the Code of West Virginia, 1931, as amended,
18 be amended and reenacted to read as follows:

19 **ARTICLE 1. GENERAL PROVISIONS.**

20 **§24-1-3. Commission continued; membership; chairman; compensation;**
21 **quorum.**

22 (a) The Public Service Commission of West Virginia is continued
23 and directed as provided by this chapter, chapter twenty-four-a,
24 chapter twenty-four-b and chapter twenty-four-d of this code. ~~After~~
25 ~~having conducted a performance audit through its joint committee on~~

1 ~~government operations, pursuant to section nine, article ten,~~
2 ~~chapter four of this code, the Legislature hereby finds and declares~~
3 ~~that the Public Service Commission should be continued and~~
4 ~~reestablished. Accordingly, notwithstanding the provisions of~~
5 ~~section five, article ten, chapter four of this code, the Public~~
6 ~~Service Commission shall continue to exist until July 1, two~~
7 ~~thousand three.~~ The Public Service Commission may sue and be sued
8 by that name.

9 (b) The Public Service Commission shall consist of three
10 members who shall be appointed by the Governor, with the advice and
11 consent of the Senate. The commissioners shall be citizens and
12 residents of this state and at least one of them shall be duly
13 licensed to practice law in West Virginia, with not less than ten
14 years' actual work experience in the legal profession as a member
15 of a State Bar.

16 (c) No more than two of the commissioners shall be members of
17 the same political party.

18 (d) Each commissioner shall, before entering upon the duties
19 of his or her office, take and subscribe to the oath provided by
20 section five, article IV of the Constitution of this state. The
21 oath shall be filed in the office of the Secretary of State.

22 (e) The Governor shall designate one of the commissioners to
23 serve as chairman at the Governor's will and pleasure. The chairman
24 shall be the chief administrative officer of the commission. The

1 Governor may remove any commissioner only for incompetency, neglect
2 of duty, gross immorality, malfeasance in office or violation of
3 ~~subsection (c)~~ subsections (g) and (h) of this section.

4 ~~(b) (f)~~ (f) ~~The unexpired terms of members of the Public Service~~
5 ~~Commission at the time this subsection becomes effective are~~
6 ~~continued.~~ Upon expiration of the terms, appointments are for terms
7 of six years, except that an appointment to fill a vacancy is for
8 the unexpired term only. ~~The commissioners whose terms are~~
9 ~~terminated by the provisions of this subsection are eligible for~~
10 ~~reappointment.~~

11 ~~(c) (g)~~ (g) No person while in the employ of, or holding any
12 official relation to, any public utility subject to the provisions
13 of this chapter or holding any stocks or bonds of a public utility
14 subject to the provisions of this chapter or who is pecuniarily
15 interested in a public utility subject to the provisions of this
16 chapter may serve as a member of the commission or as an employee
17 of the commission.

18 (h) Nor may any commissioner be a candidate for or hold public
19 office or be a member of any political committee while acting as a
20 commissioner; nor may any commissioner or employee of the commission
21 receive any pass, free transportation or other thing of value,
22 either directly or indirectly, from any public utility or motor
23 carrier subject to the provisions of this chapter. In case any of
24 the commissioners becomes a candidate for any public office or a

1 member of any political committee, the Governor shall remove him or
2 her from office and shall appoint a new commissioner to fill the
3 vacancy created.

4 ~~(d) (i) The salaries of members of the Public Service~~
5 ~~Commission and the manner in which they are paid established by the~~
6 ~~prior enactment of this section are continued. Effective July 1,~~
7 ~~2001,~~ The annual salary of each commissioner provided in section
8 two-a, article seven, chapter six of this code shall be paid in
9 monthly installments from the special funds in the percentages that
10 follow:

11 (1) From the Public Service Commission Fund collected under the
12 provisions of section six, article three of this chapter, eighty
13 percent;

14 (2) From the Public Service Commission Motor Carrier Fund
15 collected under the provisions of section six, article six, chapter
16 twenty-four-a of this code, seventeen percent; and

17 (3) From the Public Service Commission Gas Pipeline Safety Fund
18 collected under the provisions of section three, article five,
19 chapter twenty-four-b of this code, three percent.

20 (j) In addition to the salary provided for all commissioners
21 in section two-a, article seven, chapter six of this code, the
22 chairman of the commission shall receive \$5,000 per annum to be paid
23 in monthly installments from the Public Service Commission Fund
24 collected under the provisions of section six, article three of this

1 chapter.

2 (k) On a matter requiring a public hearing on a public utility
3 by the commissioners of the Public Service Commission, at least one
4 commissioner must be present before that hearing may be conducted.

NOTE: The purpose of this bill is to require at least one commissioner be present before the Public Service Commission may conduct hearings on matters that require public hearings on public utilities. The bill also deletes obsolete language.

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