

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 623**

4 (By Senator Sypolt)

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6 [Originating in the Committee on Government Organization;
7 reported February 23, 2012.]

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10 A BILL to amend and reenact §24-2-2 of the Code of West Virginia,
11 1931, as amended, relating generally to the power of the
12 Public Service Commission to regulate public utilities; and
13 authorizing the Public Service Commission to promulgate rules
14 establishing requirements for capacity improvement fees.

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

16 That §24-2-2 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.**

19 **§24-2-2. General power of commission to regulate public utilities.**

20 (a) The commission is hereby given power to investigate all
21 rates, methods and practices of public utilities subject to the
22 provisions of this chapter; to require them to conform to the laws
23 of this state and to all rules, regulations and orders of the
24 commission not contrary to law; and to require copies of all

1 reports, rates, classifications, schedules and timetables in effect
2 and used by the public utility or other person, to be filed with
3 the commission, and all other information desired by the commission
4 relating to the investigation and requirements, including
5 inventories of all property in such form and detail as the
6 commission may prescribe. The commission may compel obedience to
7 its lawful orders by mandamus or injunction or other proper
8 proceedings in the name of the state in any circuit court having
9 jurisdiction of the parties or of the subject matter, or the
10 Supreme Court of Appeals direct, and the proceedings shall have
11 priority over all pending cases. The commission may change any
12 intrastate rate, charge or toll which is unjust or unreasonable or
13 any interstate charge with respect to matters of a purely local
14 nature which have not been regulated by or pursuant to an act of
15 Congress and may prescribe a rate, charge or toll that is just and
16 reasonable, and change or prohibit any practice, device or method
17 of service in order to prevent undue discrimination or favoritism
18 between persons and between localities and between commodities for
19 a like and contemporaneous service. But in no case shall the rate,
20 toll or charge be more than the service is reasonably worth,
21 considering the cost of the service. Every order entered by the
22 commission shall continue in force until the expiration of the
23 time, if any, named by the commission in the order, or until
24 revoked or modified by the commission, unless the order is

1 suspended, modified or revoked by order or decree of a court of
2 competent jurisdiction: *Provided*, That in the case of utilities
3 used by emergency shelter providers, the commission shall prescribe
4 such rates, charges or tolls that are the lowest available.
5 "Emergency shelter provider" means any nonprofit entity which
6 provides temporary emergency housing and services to the homeless
7 or to victims of domestic violence or other abuse.

8 (b) Notwithstanding any other provision of this code to the
9 contrary, rates are not discriminatory if, when considering the
10 debt costs associated with a future water or sewer project which
11 would not benefit existing customers, the commission establishes
12 rates which ensure that the future customers to be served by the
13 new project are solely responsible for the debt costs associated
14 with the project.

15 (c) Notwithstanding any other provision of this code to the
16 contrary, the Commission shall promulgate and adopt rules to
17 establish or modify a capacity improvement fee or existing capacity
18 improvement fee for residential and commercial customers for
19 inclusion in the tariff of a private, public or municipal water or
20 sewer utility. The rules shall include the following:

21 (1) A capacity improvement fee based upon the estimated cost
22 of future additions or upgrades for capacity required to serve the
23 capacity demand by the new connection compared to the overall
24 demand due to customer growth;

1 (2) The fee that applies to developers and owners of
2 structures that seek to connect to water and sewer systems;

3 (3) The criteria for establishing the fee, including, but not
4 limited to, expected growth in population that will be served by
5 the utility, the capacity requirement to serve that population
6 growth and the expected exhaustion date of existing capacity;

7 (4) The reasonableness of establishing differentials in the
8 fee or limitations on the amount of or calculation of fees based
9 upon a relative cost of housing index created pursuant to the
10 provisions of section two-b, article one, chapter eleven of this
11 code, and the fee differentials shall not be considered
12 discriminatory rates within the meaning of this chapter;

13 (5) An affordable housing component with a discount capacity
14 improvement fee schedule based upon the new home's value compared
15 to the most recent annual single dwelling residential housing index
16 created pursuant to the provisions of section two-b, article one,
17 chapter eleven of this code;

18 (6) A lower fee for manufactured housing equal to twenty-five
19 percent of the otherwise applicable fee for a standard residential
20 housing unit;

21 (7) A fee schedule and maximum fee for a commercial
22 development and a residential development with multiple units;

23 (8) A requirement that the revenue from the capacity
24 improvement fees be deposited in a separate account to be used only

1 for future capital improvements; and

2 (9) Any other criteria relating to existing and proposed

3 capacity improvement fees the commission deems necessary to

4 effectuate the provisions of this subsection.