

1 **ENROLLED**

2 **Senate Bill No. 82**

3 (BY SENATORS SNYDER, BLAIR AND UNGER)

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5 [Passed April 13, 2013; to take effect July 1, 2013]
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10 AN ACT to amend and reenact §16-13A-3 and §16-13A-4 of the Code of
11 West Virginia, 1931, as amended, all relating to public
12 service district board membership; requiring a public service
13 board to have at least one rate-paying residential customer of
14 the public service district on the board; increasing the
15 salary of public service district board members; clarifying
16 when salary and expenses payments may be made; and adding
17 sewer service to the salary schedule for public service
18 districts which contract with others to provide service.

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

20 That §16-13A-3 and §16-13A-4 of the Code of West Virginia,
21 1931, as amended, be amended and reenacted, all to read as follows:

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

23 **§16-13A-3. District to be a public corporation and political**
24 **subdivision; powers thereof; public service boards.**

25 From and after the date of the adoption of the order creating

1 any public service district, it is a public corporation and
2 political subdivision of the state, but without any power to levy
3 or collect ad valorem taxes. Each district may acquire, own and
4 hold property, both real and personal, in its corporate name, and
5 may sue, may be sued, may adopt an official seal and may enter into
6 contracts necessary or incidental to its purposes, including
7 contracts with any city, incorporated town or other municipal
8 corporation located within or without its boundaries for furnishing
9 wholesale supply of water for the distribution system of the city,
10 town or other municipal corporation, or for furnishing storm water
11 services for the city, town or other municipal corporation, and
12 contract for the operation, maintenance, servicing, repair and
13 extension of any properties owned by it or for the operation and
14 improvement or extension by the district of all or any part of the
15 existing municipally owned public service properties of any city,
16 incorporated town or other municipal corporation included within
17 the district: *Provided*, That no contract shall extend beyond a
18 maximum of forty years, but provisions may be included therein for
19 a renewal or successive renewals thereof and shall conform to and
20 comply with the rights of the holders of any outstanding bonds
21 issued by the municipalities for the public service properties.

22 The powers of each public service district shall be vested in
23 and exercised by a public service board consisting of not less than
24 three members who shall be persons residing within the district,
25 who possess certain educational, business or work experience which
26 will be conducive to operating a public service district. In the

1 event the public service district is providing any utility service
2 and billing rates and charges to its customers, at least one board
3 member shall be a rate-paying residential customer of the public
4 service district: *Provided*, That if an existing public service
5 board does not have a member who is a rate-paying residential
6 customer of the public service district on July 1, 2013, the next
7 following appointment to the board shall be a rate-paying
8 residential customer of that public service district. For purposes
9 of this section, "rate-paying residential customer" means a person
10 who:

11 (1) In the case of a water or sewer public service district,
12 is physically connected to and actively receiving residential
13 public service district utility services; or

14 (2) In the case of a storm water public service district, has
15 storm water conveyed away from the residential property by a
16 utility owned system; and

17 (3) Has an active account in good standing and is the occupier
18 of the residential property which is on the public service district
19 utility service account.

20 Each board member shall, within six months of taking office,
21 successfully complete the training program to be established and
22 administered by the Public Service Commission in conjunction with
23 the Department of Environmental Protection and the Bureau for
24 Public Health. Board members shall not be or become pecuniarily
25 interested, directly or indirectly, in the proceeds of any contract
26 or service, or in furnishing any supplies or materials to the

1 district nor shall a former board member be hired by the district
2 in any capacity within a minimum of twelve months after board
3 member's term has expired or such board member has resigned from
4 the district board. The members shall be appointed in the
5 following manner:

6 Each city, incorporated town or other municipal corporation
7 having a population of more than three thousand but less than
8 eighteen thousand is entitled to appoint one member of the board,
9 and each city, incorporated town or other municipal corporation
10 having a population in excess of eighteen thousand shall be
11 entitled to appoint one additional member of the board for each
12 additional eighteen thousand population. The members of the board
13 representing such cities, incorporated towns or other municipal
14 corporations shall be residents thereof and shall be appointed by
15 a resolution of the governing bodies thereof and upon the filing of
16 a certified copy or copies of the resolution or resolutions in the
17 office of the clerk of the county commission which entered the
18 order creating the district, the persons so appointed become
19 members of the board without any further act or proceedings. If
20 the number of members of the board so appointed by the governing
21 bodies of cities, incorporated towns or other municipal
22 corporations included in the district equals or exceeds three, then
23 no further members shall be appointed to the board and the members
24 so appointed are the board of the district except in cases of
25 merger or consolidation where the number of board members may equal
26 five.

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

10 If the number of members of the board appointed by the
11 governing bodies of cities, incorporated towns or other municipal
12 corporations included within the district is less than three, then
13 the county commission which entered the order creating the district
14 shall appoint such additional member or members of the board, who
15 are persons residing within the district, as is necessary to make
16 the number of members of the board equal three except in cases of
17 merger or consolidation where the number of board members may equal
18 five, and the member or members appointed by the governing bodies
19 of the cities, incorporated towns or other municipal corporations
20 included within the district and the additional member or members
21 appointed by the county commission as aforesaid, are the board of
22 the district. A person may serve as a member of the board in one
23 or more public service districts.

24 The population of any city, incorporated town or other
25 municipal corporation, for the purpose of determining the number of
26 members of the board, if any, to be appointed by the governing body

1 or bodies thereof, is the population stated for such city,
2 incorporated town or other municipal corporation in the last
3 official federal census.

4 Notwithstanding any provision of this code to the contrary,
5 whenever a district is consolidated or merged pursuant to section
6 two of this article, the terms of office of the existing board
7 members shall end on the effective date of the merger or
8 consolidation. The county commission shall appoint a new board
9 according to rules promulgated by the Public Service Commission.
10 Whenever districts are consolidated or merged no provision of this
11 code prohibits the expansion of membership on the new board to
12 five.

13 The respective terms of office of the members of the first
14 board shall be fixed by the county commission and shall be as
15 equally divided as may be, that is approximately one third of the
16 members for a term of two years, a like number for a term of four
17 years, the term of the remaining member or members for six years,
18 from the first day of the month during which the appointments are
19 made. The first members of the board appointed as aforesaid shall
20 meet at the office of the clerk of the county commission which
21 entered the order creating the district as soon as practicable
22 after the appointments and shall qualify by taking an oath of
23 office: *Provided*, That any member or members of the board may be
24 removed from their respective office as provided in section three-a
25 of this article.

26 Any vacancy shall be filled for the unexpired term within

1 thirty days; otherwise successor members of the board shall be
2 appointed for terms of six years and the terms of office shall
3 continue until successors have been appointed and qualified. All
4 successor members shall be appointed in the same manner as the
5 member succeeded was appointed. The district shall provide to the
6 Public Service Commission, within thirty days of the appointment,
7 the following information: The new board member's name, home
8 address, home and office phone numbers, date of appointment, length
9 of term, who the new member replaces and if the new appointee has
10 previously served on the board. The Public Service Commission
11 shall notify each new board member of the legal obligation to
12 attend training as prescribed in this section.

13 The board shall organize within thirty days following the
14 first appointments and annually thereafter at its first meeting
15 after January 1 of each year by selecting one of its members to
16 serve as chair and by appointing a secretary and a treasurer who
17 need not be members of the board. The secretary shall keep a
18 record of all proceedings of the board which shall be available for
19 inspection as other public records. Duplicate records shall be
20 filed with the county commission and shall include the minutes of
21 all board meetings. The treasurer is lawful custodian of all funds
22 of the public service district and shall pay same out on orders
23 authorized or approved by the board. The secretary and treasurer
24 shall perform other duties appertaining to the affairs of the
25 district and shall receive salaries as shall be prescribed by the
26 board. The treasurer shall furnish bond in an amount to be fixed

1 by the board for the use and benefit of the district.

2 The members of the board, and the chair, secretary and
3 treasurer thereof, shall make available to the county commission,
4 at all times, all of its books and records pertaining to the
5 district's operation, finances and affairs, for inspection and
6 audit. The board shall meet at least monthly.

7 **§16-13A-4. Board chairman; members' compensation; procedure;**
8 **district name.**

9 (a) The chairman shall preside at all meetings of the board
10 and may vote as any other member of the board. If the chairman is
11 absent from any meeting, the remaining members may select a
12 temporary chairman and if the member selected as chairman resigns
13 as such or ceases for any reason to be a member of the board, the
14 board shall select one of its members as chairman to serve until
15 the next annual organization meeting.

16 (b) Salaries of the board members are:

17 (1) For districts with fewer than six hundred customers, up to
18 \$100 per attendance at regular monthly meetings and \$75 per
19 attendance at additional special meetings, total salary not to
20 exceed \$2,000 per annum;

21 (2) For districts with six hundred customers or more but fewer
22 than two thousand customers, up to \$125 per attendance at regular
23 monthly meetings and \$100 per attendance at additional special
24 meetings, total salary not to exceed \$3,250 per annum;

25 (3) For districts with two thousand customers or more, but
26 fewer than four thousand customers, up to \$150 per attendance at

1 regular monthly meetings and \$100 per attendance at additional
2 special meetings, total salary not to exceed \$4,500 per annum; and

3 (4) For districts with four thousand or more customers, up to
4 \$200 per attendance at regular monthly meetings and \$150 per
5 attendance at additional special meetings, total salary not to
6 exceed \$6,400 per annum.

7 The public service district shall certify the number of
8 customers served to the Public Service Commission on July 1 of each
9 fiscal year.

10 (c) Public service districts selling water to other water
11 utilities for resale or public service districts which provide
12 sewer treatment for other sewer utilities may adopt the following
13 salaries for its board members:

14 (1) For districts with annual revenues of less than \$50,000,
15 up to \$100 per attendance at regular monthly meetings and \$75 per
16 attendance at additional special meetings, total salary not to
17 exceed \$2,000 per annum;

18 (2) For districts with annual revenues of \$50,000 or more, but
19 less than \$250,000, up to \$125 per attendance at regular monthly
20 meetings and \$100 per attendance at special meetings, total salary
21 not to exceed \$3,250 per annum;

22 (3) For districts with annual revenues of \$250,000 or more,
23 but less than \$500,000, up to \$150 per attendance at regular
24 monthly meetings and \$100 per attendance at additional special
25 meetings, total salary not to exceed \$4,500 per annum; and

26 (4) For districts with annual revenues of \$500,000 or more, up

1 to \$200 per attendance at regular monthly meetings and \$150 per
2 attendance at additional special meetings, total salary not to
3 exceed \$6,400 per annum.

4 The public service district shall certify the number of
5 customers served and its annual revenue to the Public Service
6 Commission on July 1 of each fiscal year.

7 (d) Board members may be reimbursed for all reasonable and
8 necessary expenses actually incurred in the performance of their
9 duties as provided by the rules of the board. Notwithstanding any
10 other provision of this code to the contrary, board members are not
11 eligible for salary payment or reimbursement for expenses incurred
12 prior to the public service district initiating service to its
13 first customer. Salary and reimbursement for expenses may be
14 incurred only at meetings occurring after the public service
15 district initiated service to customers.

16 (e) The board shall by resolution determine its own rules of
17 procedure, fix the time and place of its meetings and the manner in
18 which special meetings may be called. Public notice of meetings
19 shall be given in accordance with section three, article nine-a,
20 chapter six of this code. Emergency meetings may be called as
21 provided by that section. A majority of the members constituting
22 the board also constitute a quorum to do business.

23 (f) The members of the board are not personally liable or
24 responsible for any obligations of the district or the board, but
25 are answerable only for willful misconduct in the performance of
26 their duties. The county commission which created a district or

1 county commissions if more than one created the district may, upon
2 written request of the district, adopt an order changing the
3 official name of a public service district: *Provided*, That the name
4 change will not be effective until approved by the Public Service
5 Commission of West Virginia and the owners of any bonds and notes
6 issued by the district, if any, shall have consented, in writing,
7 to the name change. If a district includes territory located in
8 more than one county, the county commission or county commissions
9 changing the name of the district shall provide any county
10 commission into which the district also extends with a certified
11 copy of the order changing the name of the district. The official
12 name of any district created under the provisions of this article
13 may contain the name or names of any city, incorporated town or
14 other municipal corporation included therein or the name of any
15 county or counties in which it is located.