

# Senate Bill No. 82

(By Senators Snyder, Blair and Unger)

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[Introduced February 13, 2013; referred to the Committee on  
Government Organization.]

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A BILL to amend and reenact §16-13A-3 of the Code of West Virginia, 1931, as amended, relating to requiring a public service board to have at least one rate-paying residential customer of the public service district on its board membership.

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

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

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

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

- 1 From and after the date of the adoption of the order
- 2 creating any public service district, it is a public corporation

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

21 provisions may be included therein for a renewal or  
22 successive renewals thereof and shall conform to and comply  
23 with the rights of the holders of any outstanding bonds issued  
24 by the municipalities for the public service properties.

25       The powers of each public service district shall be vested  
26 in and exercised by a public service board consisting of not  
27 less than three members who shall be persons residing within  
28 the district, who possess certain educational, business or  
29 work experience which will be conducive to operating a  
30 public service district. In the event the public service district  
31 is providing any utility service and billing rates and charges  
32 to its customers, at least one board member shall be a rate-  
33 paying residential customer of the public service district:  
34 *Provided, That if an existing public service board does not*  
35 *have a member who is a rate-paying residential customer of*  
36 *the public service district on July 1, 2013, the next following*  
37 *appointment to the board shall be a rate-paying residential*  
38 *customer of that public service district. For purposes of this*

39 section, “rate-paying residential customer” means a person

40 who:

41 (1) In the case of a water or sewer public service district,

42 is physically connected to and actively receiving residential

43 public service district utility services; or

44 (2) In the case of a storm water public service district, has

45 storm water conveyed away from the residential property by

46 a utility owned system; and

47 (3) Has an active account in good standing and is the

48 occupier of the residential property which is on the public

49 service district utility service account.

50 Each board member shall, within six months of taking

51 office, successfully complete the training program to be

52 established and administered by the Public Service

53 Commission in conjunction with the ~~Division~~ Department of

54 Environmental Protection and the Bureau of Public Health.

55 Board members shall not be or become pecuniarily

56 interested, directly or indirectly, in the proceeds of any

57 contract or service, or in furnishing any supplies or materials

58 to the district nor shall a former board member be hired by  
59 the district in any capacity within a minimum of twelve  
60 months after board member's term has expired or such board  
61 member has resigned from the district board. The members  
62 shall be appointed in the following manner:

63 Each city, incorporated town or other municipal  
64 corporation having a population of more than three thousand  
65 but less than eighteen thousand is entitled to appoint one  
66 member of the board, and each city, incorporated town or  
67 other municipal corporation having a population in excess of  
68 eighteen thousand shall be entitled to appoint one additional  
69 member of the board for each additional eighteen thousand  
70 population. The members of the board representing such  
71 cities, incorporated towns or other municipal corporations  
72 shall be residents thereof and shall be appointed by a  
73 resolution of the governing bodies thereof and upon the filing  
74 of a certified copy or copies of the resolution or resolutions  
75 in the office of the clerk of the county commission which  
76 entered the order creating the district, the persons so

77 appointed become members of the board without any further  
78 act or proceedings. If the number of members of the board so  
79 appointed by the governing bodies of cities, incorporated  
80 towns or other municipal corporations included in the district  
81 equals or exceeds three, then no further members shall be  
82 appointed to the board and the members so appointed are the  
83 board of the district except in cases of merger or  
84 consolidation where the number of board members may equal  
85 five.

86 If no city, incorporated town or other municipal  
87 corporation having a population of more than three thousand  
88 is included within the district, then the county commission  
89 which entered the order creating the district shall appoint  
90 three members of the board, who are persons residing within  
91 the district and residing within the State of West Virginia,  
92 which three members become members of the board of the  
93 district without any further act or proceedings except in cases  
94 of merger or consolidation where the number of board  
95 members may equal five.

96        If the number of members of the board appointed by the  
97 governing bodies of cities, incorporated towns or other  
98 municipal corporations included within the district is less  
99 than three, then the county commission which entered the  
100 order creating the district shall appoint such additional  
101 member or members of the board, who are persons residing  
102 within the district, as is necessary to make the number of  
103 members of the board equal three except in cases of merger  
104 or consolidation where the number of board members may  
105 equal five, and the member or members appointed by the  
106 governing bodies of the cities, incorporated towns or other  
107 municipal corporations included within the district and the  
108 additional member or members appointed by the county  
109 commission as aforesaid, are the board of the district. A  
110 person may serve as a member of the board in one or more  
111 public service districts.

112        The population of any city, incorporated town or other  
113 municipal corporation, for the purpose of determining the  
114 number of members of the board, if any, to be appointed by

115 the governing body or bodies thereof, is the population stated  
116 for such city, incorporated town or other municipal  
117 corporation in the last official federal census.

118 Notwithstanding any provision of this code to the  
119 contrary, whenever a district is consolidated or merged  
120 pursuant to section two of this article, the terms of office of  
121 the existing board members shall end on the effective date of  
122 the merger or consolidation. The county commission shall  
123 appoint a new board according to rules promulgated by the  
124 Public Service Commission. Whenever districts are  
125 consolidated or merged no provision of this code prohibits  
126 the expansion of membership on the new board to five.

127 The respective terms of office of the members of the first  
128 board shall be fixed by the county commission and shall be  
129 as equally divided as may be, that is approximately one third  
130 of the members for a term of two years, a like number for a  
131 term of four years, the term of the remaining member or  
132 members for six years, from the first day of the month during  
133 which the appointments are made. The first members of the



134 board appointed as aforesaid shall meet at the office of the  
135 clerk of the county commission which entered the order  
136 creating the district as soon as practicable after the  
137 appointments and shall qualify by taking an oath of office:  
138 *Provided*, That any member or members of the board may be  
139 removed from their respective office as provided in section  
140 three-a of this article.

141 Any vacancy shall be filled for the unexpired term within  
142 thirty days; otherwise successor members of the board shall  
143 be appointed for terms of six years and the terms of office  
144 shall continue until successors have been appointed and  
145 qualified. All successor members shall be appointed in the  
146 same manner as the member succeeded was appointed. The  
147 district shall provide to the Public Service Commission,  
148 within thirty days of the appointment, the following  
149 information: The new board member's name, home address,  
150 home and office phone numbers, date of appointment, length  
151 of term, who the new member replaces and if the new  
152 appointee has previously served on the board. The Public

153 Service Commission shall notify each new board member of  
154 the legal obligation to attend training as prescribed in this  
155 section.

156 The board shall organize within thirty days following the  
157 first appointments and annually thereafter at its first meeting  
158 after January 1 of each year by selecting one of its members  
159 to serve as chair and by appointing a secretary and a treasurer  
160 who need not be members of the board. The secretary shall  
161 keep a record of all proceedings of the board which shall be  
162 available for inspection as other public records. Duplicate  
163 records shall be filed with the county commission and shall  
164 include the minutes of all board meetings. The treasurer is  
165 lawful custodian of all funds of the public service district and  
166 shall pay same out on orders authorized or approved by the  
167 board. The secretary and treasurer shall perform other duties  
168 appertaining to the affairs of the district and shall receive  
169 salaries as shall be prescribed by the board. The treasurer  
170 shall furnish bond in an amount to be fixed by the board for  
171 the use and benefit of the district.

172       The members of the board, and the chair, secretary and  
173       treasurer thereof, shall make available to the county  
174       commission, at all times, all of its books and records  
175       pertaining to the district's operation, finances and affairs, for  
176       inspection and audit. The board shall meet at least monthly.

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(NOTE: The purpose of this bill is to require that a public service board have at least one rate paying residential customer of the public service district on its board membership.

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