

WEST VIRGINIA LEGISLATURE
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ENROLLED

Senate Bill No. 82

(BY SENATORS SNYDER, BLAIR AND UNGER)

[PASSED APRIL 13, 2013; TO TAKE EFFECT JULY 1, 2013.]

E N R O L L E D

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[Passed April 13, 2013; to take effect July 1, 2013.]

AN ACT to amend and reenact §16-13A-3 and §16-13A-4 of the Code of West Virginia, 1931, as amended, relating to public service district board membership; requiring a public service board to have at least one rate-paying residential customer of the public service district on the board; increasing the salary of public service district board members; clarifying when salary and expenses payments may be made; and adding sewer service to the salary schedule for public service districts which contract with others to provide service.

Be it enacted by the Legislature of West Virginia:

That §16-13A-3 and §16-13A-4 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, and
14 contract for the operation, maintenance, servicing, repair and
15 extension of any properties owned by it or for the operation
16 and improvement or extension by the district of all or any
17 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 Department of
54 Environmental Protection and the Bureau of Public Health.
55 Board members shall not be or become pecuniarily interested,
56 directly or indirectly, in the proceeds of any contract or
57 service, or in furnishing any supplies or materials to the
58 district nor shall a former board member be hired by the
59 district in any capacity within a minimum of twelve months
60 after board member's term has expired or such board member
61 has resigned from the district board. The members shall be
62 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.

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

1 (a) The chairman shall preside at all meetings of the
2 board and may vote as any other member of the board. If the
3 chairman is absent from any meeting, the remaining members
4 may select a temporary chairman and if the member selected
5 as chairman resigns as such or ceases for any reason to be a
6 member of the board, the board shall select one of its
7 members as chairman to serve until the next annual
8 organization meeting.

9 (b) Salaries of the board members are:

10 (1) For districts with fewer than six hundred customers,
11 up to \$100 per attendance at regular monthly meetings and
12 \$75 per attendance at additional special meetings, total salary
13 not to exceed \$2,000 per annum;

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

19 (3) For districts with two thousand customers or more,
20 but fewer than four thousand customers, up to \$150 per
21 attendance at regular monthly meetings and \$100 per
22 attendance at additional special meetings, total salary not to
23 exceed \$4,500 per annum; and

24 (4) For districts with four thousand or more customers, up
25 to \$200 per attendance at regular monthly meetings and \$150

26 per attendance at additional special meetings, total salary not
27 to exceed \$6,400 per annum.

28 The public service district shall certify the number of
29 customers served to the Public Service Commission on July
30 1 of each fiscal year.

31 (c) Public service districts selling water to other water
32 utilities for resale or public service districts which provide
33 sewer treatment for other sewer utilities may adopt the
34 following salaries for its board members:

35 (1) For districts with annual revenues of less than
36 \$50,000, up to \$100 per attendance at regular monthly
37 meetings and \$75 per attendance at additional special
38 meetings, total salary not to exceed \$2,000 per annum;

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

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

48 (4) For districts with annual revenues of \$500,000 or
49 more, up to \$200 per attendance at regular monthly meetings
50 and \$150 per attendance at additional special meetings, total
51 salary not to exceed \$6,400 per annum.

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

55 (d) Board members may be reimbursed for all reasonable
56 and necessary expenses actually incurred in the performance
57 of their duties as provided by the rules of the board.
58 Notwithstanding any other provision of this code to the
59 contrary, board members are not eligible for salary payment
60 or reimbursement for expenses incurred prior to the public
61 service district initiating service to its first customer. Salary
62 and reimbursement for expenses may be incurred only at
63 meetings occurring after the public service district initiated
64 service to customers.

65 (e) The board shall by resolution determine its own rules
66 of procedure, fix the time and place of its meetings and the
67 manner in which special meetings may be called. Public
68 notice of meetings shall be given in accordance with section
69 three, article nine-a, chapter six of this code. Emergency
70 meetings may be called as provided by that section. A
71 majority of the members constituting the board also constitute
72 a quorum to do business.

73 (f) The members of the board are not personally liable or
74 responsible for any obligations of the district or the board, but
75 are answerable only for willful misconduct in the
76 performance of their duties. The county commission which
77 created a district or county commissions if more than one
78 created the district may, upon written request of the district,
79 adopt an order changing the official name of a public service
80 district: *Provided*, That the name change will not be effective
81 until approved by the Public Service Commission of West
82 Virginia and the owners of any bonds and notes issued by the
83 district, if any, shall have consented, in writing, to the name
84 change. If a district includes territory located in more than
85 one county, the county commission or county commissions
86 changing the name of the district shall provide any county
87 commission into which the district also extends with a
88 certified copy of the order changing the name of the district.
89 The official name of any district created under the provisions

90 of this article may contain the name or names of any city,
91 incorporated town or other municipal corporation included
92 therein or the name of any county or counties in which it is
93 located.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

To take effect July 1, 2013.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the
Day of, 2013.

.....
Governor