

1 rules in connection with the acquisition, construction,
2 improvement, extension, management, maintenance, operation, care,
3 protection and the use of any public service properties owned or
4 controlled by the district. The board shall establish rates, fees
5 and charges for the services and facilities it furnishes, which
6 shall be sufficient at all times, notwithstanding the provisions of
7 any other law or laws, to pay the cost of maintenance, operation
8 and depreciation of the public service properties and principal of
9 and interest on all bonds issued, other obligations incurred under
10 the provisions of this article and all reserve or other payments
11 provided for in the proceedings which authorized the issuance of
12 any bonds under this article. The schedule of the rates, fees and
13 charges may be based upon:

14 (A) The consumption of water or gas on premises connected with
15 the facilities, taking into consideration domestic, commercial,
16 industrial and public use of water and gas;

17 (B) The number and kind of fixtures connected with the
18 facilities located on the various premises;

19 (C) The number of persons served by the facilities;

20 (D) Any combination of paragraphs (A), (B) and (C) of this
21 subdivision; or

22 (E) May be determined on any other basis or classification
23 which the board may determine to be fair and reasonable, taking
24 into consideration the location of the premises served and the

1 nature and extent of the services and facilities furnished.
2 However, no rates, fees or charges for stormwater services may be
3 assessed against highways, road and drainage easements or
4 stormwater facilities constructed, owned or operated by the West
5 Virginia Division of Highways.

6 (2) Where water, sewer, stormwater or gas services, or any
7 combination thereof, are all furnished to any premises, the
8 schedule of charges may be billed as a single amount for the
9 aggregate of the charges. The board shall require all users of
10 services and facilities furnished by the district to designate on
11 every application for service whether the applicant is a tenant or
12 an owner of the premises to be served. If the applicant is a
13 tenant, he or she shall state the name and address of the owner or
14 owners of the premises to be served by the district.
15 Notwithstanding the provisions of section eight, article three,
16 chapter twenty-four of this code to the contrary, all new
17 applicants for service shall deposit the greater of a sum equal to
18 two twelfths of the average annual usage of the applicant's
19 specific customer class or \$50, with the district to secure the
20 payment of service rates, fees and charges in the event they become
21 delinquent as provided in this section. If a district provides
22 both water and sewer service, all new applicants for service shall
23 deposit the greater of a sum equal to two twelfths of the average
24 annual usage for water service or \$50 and the greater of a sum

1 equal to two twelfths of the average annual usage for wastewater
2 service of the applicant's specific customer class or \$50. In any
3 case where a deposit is forfeited to pay service rates, fees and
4 charges which were delinquent at the time of disconnection or
5 termination of service, no reconnection or reinstatement of service
6 may be made by the district until another deposit equal to the
7 greater of a sum equal to two twelfths of the average usage for the
8 applicant's specific customer class or \$50 has been remitted to the
9 district. After twelve months of prompt payment history, the
10 district shall return the deposit to the customer or credit the
11 customer's account at a rate as the Public Service Commission may
12 prescribe: *Provided*, That where the customer is a tenant, the
13 district is not required to return the deposit until the time the
14 tenant discontinues service with the district. Whenever any rates,
15 fees, rentals or charges for services or facilities furnished
16 remain unpaid for a period of twenty days after the same become due
17 and payable, the user of the services and facilities provided is
18 delinquent and the user is liable at law until all rates, fees and
19 charges are fully paid. The board may, under reasonable rules
20 promulgated by the Public Service Commission, shut off and
21 discontinue water or gas services to all delinquent users of either
22 water or gas facilities, or both, ten days after the water or gas
23 services become delinquent and the user is first notified, not less
24 than one week after the service becomes delinquent, in writing of

1 the delinquency and date of termination: *Provided, however,* That
2 nothing contained within the rules of the Public Service Commission
3 shall be deemed to require any agents or employees of the board to
4 accept payment at the customer's premises in lieu of discontinuing
5 service for a delinquent bill.

6 (b) In the event that any publicly or privately owned utility,
7 city, incorporated town, other municipal corporation or other
8 public service district included within the district owns and
9 operates separately water facilities, sewer facilities or
10 stormwater facilities and the district owns and operates another
11 kind of facility either water or sewer, or both, as the case may
12 be, then the district and the publicly or privately owned utility,
13 city, incorporated town or other municipal corporation or other
14 public service district shall covenant and contract with each other
15 to shut off and discontinue the supplying of water service for the
16 nonpayment of sewer or stormwater service fees and charges:
17 *Provided,* That any contracts entered into by a public service
18 district pursuant to this section shall be submitted to the Public
19 Service Commission for approval. Any public service district which
20 provides water and sewer service, water and stormwater service or
21 water, sewer and stormwater service has the right to terminate
22 water service for delinquency in payment of water, sewer or
23 stormwater bills. Where one public service district is providing
24 sewer service and another public service district or a municipality

1 included within the boundaries of the sewer or stormwater district
2 is providing water service and the district providing sewer or
3 stormwater service experiences a delinquency in payment, the
4 district or the municipality included within the boundaries of the
5 sewer or stormwater district that is providing water service, upon
6 the request of the district providing sewer or stormwater service
7 to the delinquent account, shall terminate its water service to the
8 customer having the delinquent sewer or stormwater account:
9 *Provided, however,* That any termination of water service must
10 comply with all rules and orders of the Public Service Commission.
11 *Provided further,* That nothing contained within the rules of the
12 Public Service Commission shall be deemed to require any agents or
13 employees of the Public Service Districts to accept payment at the
14 customer's premises in lieu of discontinuing service for a
15 delinquent bill.

16 (c) Any district furnishing sewer facilities within the
17 district may require, or may by petition to the circuit court of
18 the county in which the property is located, compel or may require
19 the Division of Health to compel all owners, tenants or occupants
20 of any houses, dwellings and buildings located near any sewer
21 facilities where sewage will flow by gravity or be transported by
22 other methods approved by the Division of Health, including, but
23 not limited to, vacuum and pressure systems, approved under the
24 provisions of section nine, article one, chapter sixteen of this

1 code, from the houses, dwellings or buildings into the sewer
2 facilities, to connect with and use the sewer facilities and to
3 cease the use of all other means for the collection, treatment and
4 disposal of sewage and waste matters from the houses, dwellings and
5 buildings where there is gravity flow or transportation by any
6 other methods approved by the Division of Health, including, but
7 not limited to, vacuum and pressure systems, approved under the
8 provisions of section nine, article one, chapter sixteen of this
9 code and the houses, dwellings and buildings can be adequately
10 served by the sewer facilities of the district and it is declared
11 that the mandatory use of the sewer facilities provided for in this
12 paragraph is necessary and essential for the health and welfare of
13 the inhabitants and residents of the districts and of the state.
14 If the public service district requires the property owner to
15 connect with the sewer facilities even when sewage from dwellings
16 may not flow to the main line by gravity and the property owner
17 incurs costs for any changes in the existing dwellings' exterior
18 plumbing in order to connect to the main sewer line, the Public
19 Service District Board shall authorize the district to pay all
20 reasonable costs for the changes in the exterior plumbing,
21 including, but not limited to, installation, operation, maintenance
22 and purchase of a pump or any other method approved by the Division
23 of Health. Maintenance and operation costs for the extra
24 installation should be reflected in the users charge for approval

1 of the Public Service Commission. The circuit court shall
2 adjudicate the merits of the petition by summary hearing to be held
3 not later than thirty days after service of petition to the
4 appropriate owners, tenants or occupants.

5 (d) Whenever any district has made available sewer facilities
6 to any owner, tenant or occupant of any house, dwelling or building
7 located near the sewer facility and the engineer for the district
8 has certified that the sewer facilities are available to and are
9 adequate to serve the owner, tenant or occupant and sewage will
10 flow by gravity or be transported by other methods approved by the
11 Division of Health from the house, dwelling or building into the
12 sewer facilities, the district may charge, and the owner, tenant or
13 occupant shall pay, the rates and charges for services established
14 under this article only after thirty-day notice of the availability
15 of the facilities has been received by the owner, tenant or
16 occupant. Rates and charges for sewage services shall be based
17 upon actual water consumption or the average monthly water
18 consumption based upon the owner's, tenant's or occupant's specific
19 customer class.

20 (e) The owner, tenant or occupant of any real property may be
21 determined and declared to be served by a stormwater system only
22 after each of the following conditions is met: (1) The district
23 has been designated by the Environmental Protection Agency as an
24 entity to serve a West Virginia Separate Storm Sewer System

1 community, as defined in 40 C.F.R. §122.26; (2) the district's
2 authority has been properly expanded to operate and maintain a
3 stormwater system; (3) the district has made available a stormwater
4 system where stormwater from the real property affects or drains
5 into the stormwater system; and (4) the real property is located in
6 the Municipal Separate Storm Sewer System's designated service
7 area. It is further hereby found, determined and declared that the
8 mandatory use of the stormwater system is necessary and essential
9 for the health and welfare of the inhabitants and residents of the
10 district and of the state. The district may charge and the owner,
11 tenant or occupant shall pay the rates, fees and charges for
12 stormwater services established under this article only after
13 thirty-day notice of the availability of the stormwater system has
14 been received by the owner. An entity providing stormwater service
15 shall provide a tenant a report of the stormwater fee charged for
16 the entire property and, if appropriate, that portion of the fee to
17 be assessed to the tenant.

18 (f) All delinquent fees, rates and charges of the district for
19 either water facilities, sewer facilities, gas facilities or
20 stormwater systems or stormwater management programs are liens on
21 the premises served of equal dignity, rank and priority with the
22 lien on the premises of state, county, school and municipal taxes.
23 Nothing contained within the rules of the Public Service Commission
24 shall be deemed to require any agents or employees of the Public

1 Service Districts to accept payment at the customer's premises in
2 lieu of discontinuing service for a delinquent bill. In addition
3 to the other remedies provided in this section, public service
4 districts are granted a deferral of filing fees or other fees and
5 costs incidental to the bringing and maintenance of an action in
6 magistrate court for the collection of delinquent water, sewer,
7 stormwater or gas bills. If the district collects the delinquent
8 account, plus reasonable costs, from its customer or other
9 responsible party, the district shall pay to the magistrate the
10 normal filing fee and reasonable costs which were previously
11 deferred. In addition, each public service district may exchange
12 with other public service districts a list of delinquent accounts:
13 *Provided*, That an owner of real property may not be held liable for
14 the delinquent rates or charges for services or facilities of a
15 tenant, nor may any lien attach to real property for the reason of
16 delinquent rates or charges for services or facilities of a tenant
17 of the real property, unless the owner has contracted directly with
18 the public service district to purchase the services or facilities.

19 (g) Anything in this section to the contrary notwithstanding,
20 any establishment, as defined in section three, article eleven,
21 chapter twenty-two of this code, now or hereafter operating its own
22 sewage disposal system pursuant to a permit issued by the
23 Department of Environmental Protection, as prescribed by section
24 eleven of said article, is exempt from the provisions of this

1 section.

2 (h) A public service district which has been designated by the
3 Environmental Protection Agency as an entity to serve a West
4 Virginia Separate Storm Sewer System community shall prepare an
5 annual report detailing the collection and expenditure of rates,
6 fees or charges and make it available for public review at the
7 place of business of the governing body and the stormwater utility
8 main office.

NOTE: The purpose of this bill is to require written notice from public service boards to users of delinquency and date of termination and discontinuance of service. The bill provides that the notice of termination may be made not less than one week after the notice of delinquency occurs.

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