

H. B. 2512

(By Delegates Walters, R. Phillips, J. Nelson, Canterbury, R. Smith,
Gearheart, Williams, Marcum, H. White and Pethtel)

[Introduced January 29, 2015; referred to the
Committee on Energy then the Judiciary.]

A BILL to amend and reenact §24-2-12 of the Code of West Virginia, 1931, as amended, relating to requiring the consent of the Public Service Commission before an electric utility subject to this chapter may retire or permanently shut-down an electric generating plant; and providing that the Public Service Commission require a contemporaneous and achievable plan by the utility to assure continuation of economical, adequate and reliable electricity power supply, before consenting to the retirement or shut-down.

Be it enacted by the Legislature of West Virginia:

That §24-2-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-12. What acts may not be done without consent of commission; consent in advance of exemption of transactions; when sale, etc., of franchises, mergers, etc., void.

Unless the consent and approval of the Public Service Commission of West Virginia is first obtained: (a) No public utility subject to the provisions of this chapter, except railroads other than

1 street railroads, may enter into any contract with any other utility to operate any line or plant of any
2 other utility subject thereto, nor which will enable such public utility to operate their lines or plants
3 in connection with each other, but this shall not be construed to prevent physical connections
4 between utilities supplying the same service or commodity, for temporary purposes only, upon
5 condition, however, that prompt notice thereof be given to the commission for such action, if any,
6 as it may deem necessary, and thereafter the commission may require such connection to be removed
7 or discontinued; (b) no public utility subject to the provisions of this chapter, except railroads other
8 than street railroads, may purchase, lease, or in any other manner acquire control, direct or indirect,
9 over the franchises, licenses, permits, plants, equipment, business or other property of any other
10 utility; (c) no public utility subject to the provisions of this chapter, except railroads other than street
11 railroads, may assign, transfer, lease, sell, or otherwise dispose of its franchises, licenses, permits,
12 plants, equipment, business or other property or any part thereof; but this shall not be construed to
13 prevent the sale, lease, assignment or transfer by any public utility of any tangible personal property
14 which is not necessary or useful, nor will become necessary or useful in the future, in the
15 performance of its duties to the public; (d) no public utility subject to the provisions of this chapter,
16 except railroads other than street railroads, may, by any means, direct or indirect, merge or
17 consolidate its franchises, licenses, permits, plants, equipment, business or other property with that
18 of any other public utility; (e) no public utility subject to the provisions of this chapter, except
19 railroads other than street railroads, may purchase, acquire, take or receive any stock, stock
20 certificates, bonds, notes or other evidence of indebtedness of any other public utility; (f) no public
21 utility subject to the provisions of this chapter, except railroads other than street railroads, may, by
22 any means, direct or indirect, enter into any contract or arrangement for management, construction,

1 engineering, supply or financial services or for the furnishing of any other service, property or thing,
2 with any affiliated corporation, person or interest; (g) no person or corporation, whether or not
3 organized under the laws of this state, may acquire either directly or indirectly a majority of the
4 common stock of any public utility organized and doing business in this state; no electric utility
5 subject to this chapter may retire or permanently shut-down an electric generating plant.

6 The commission may grant its consent in advance or exempt from the requirements of this
7 section all assignments, transfers, leases, sales or other disposition of the whole or any part of the
8 franchises, licenses, permits, plants, equipment, business or other property of any public utility, or
9 any merger or consolidation thereof and every contract, purchase of stocks, arrangement, transfer or
10 acquisition of control, or other transaction referred to in this section, upon proper showing that the
11 terms and conditions thereof are reasonable and that neither party thereto is given an undue
12 advantage over the other, and do not adversely affect the public in this state. In considering whether
13 to grant its consent for the retirement or permanent shut-down of an electric generating plant, the
14 commission shall consider the impact of the retirement or shut-down on the availability of
15 economical, adequate and reliable electricity power supply for customers in the state and, if the
16 power supply is jeopardized by the retirement or permanent shut-down, before granting its consent,
17 the commission shall require a contemporaneous and achievable plan by the utility to assure
18 continuation of economical, adequate and reliable electricity power supply.

19 The commission shall prescribe such rules and regulations as, in its opinion, are necessary
20 for the reasonable enforcement and administration of this section, including the procedure to be
21 followed, the notice to be given of any hearing hereunder, if it deems a hearing necessary, and after
22 such hearing or in case no hearing is required, the commission shall, if the public will be

1 convenienced thereby, enter such order as it may deem proper and as the circumstances may require,
2 attaching thereto such conditions as it may deem proper, consent to the entering into or doing of the
3 things herein provided, without approving the terms and conditions thereof, and thereupon it shall
4 be lawful to do the things provided for in such order.

5 Every assignment, transfer, lease, sale or other disposition of the whole or any part of the
6 franchises, licenses, permits, plant, equipment, business or other property of any public utility, or any
7 merger or consolidation thereof and every contract, purchase of stock, arrangement, transfer or
8 acquisition of control or other transaction referred to in this section, or retirement or permanent
9 shut-down of an electric generating plant by any electric utility, made otherwise than as hereinbefore
10 provided shall be void to the extent that the interests of the public in this state are adversely affected,
11 but this shall not be construed to relieve any utility from any duty required by this section.

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NOTE: The purpose of this bill is to require the consent of the Public Service Commission before an electric utility subject to this chapter may retire or permanently shut-down an electric generating plant. The bill further provides that the Public Service Commission require a contemporaneous and achievable plan by the utility to assure continuation of economical, adequate and reliable electricity power supply, before consenting to the retirement or shut-down.

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