

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 3073

**FISCAL
NOTE**

BY DELEGATE ROWE, WHITE AND ROBINSON

[Introduced March 14, 2017; Referred
to the Committee on Political Subdivisions then the
Judiciary.]

1 A BILL to amend and reenact §16-13a-3 of the Code of West Virginia, 1931, as amended, relating
 2 generally to public service districts and their boards; decreasing the population size of
 3 towns that may appoint a member to the board; decreasing the population size of towns
 4 that may appoint additional members to the board; increasing the number of board
 5 members in certain cases; and providing that the secretary and treasurers of the boards
 6 are to be paid reasonable salaries approved by a majority of the board members.

Be it enacted by the Legislature of West Virginia:

1 That §16-13a-3 of the Code of West Virginia, 1931, as amended, be amended and
 2 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 creating any public service district, it
 2 is a public corporation and political subdivision of the state, but without any power to levy or collect
 3 ad valorem taxes. Each district may acquire, own and hold property, both real and personal, in its
 4 corporate name, and may sue, may be sued, may adopt an official seal and may enter into
 5 contracts necessary or incidental to its purposes, including contracts with any city, incorporated
 6 town or other municipal corporation located within or without its boundaries for furnishing
 7 wholesale supply of water for the distribution system of the city, town or other municipal
 8 corporation, or for furnishing storm water services for the city, town or other municipal corporation,
 9 and contract for the operation, maintenance, servicing, repair and extension of any properties
 10 owned by it or for the operation and improvement or extension by the district of all or any part of
 11 the existing municipally owned public service properties of any city, incorporated town or other
 12 municipal corporation included within the district: *Provided*, That no contract shall extend beyond
 13 a maximum of forty years, but provisions may be included therein for a renewal or successive
 14 renewals thereof and shall conform to and comply with the rights of the holders of any outstanding

15 bonds issued by the municipalities for the public service properties.

16 The powers of each public service district shall be vested in and exercised by a public
17 service board consisting of not less than three members who shall be persons residing within the
18 district, who possess certain educational, business or work experience which will be conducive to
19 operating a public service district. In the event the public service district is providing any utility
20 service and billing rates and charges to its customers, at least one board member shall be a rate-
21 paying residential customer of the public service district: *Provided*, That if an existing public
22 service board does not have a member who is a rate-paying residential customer of the public
23 service district on July 1, ~~2013~~ 2017, the next following appointment to the board shall be a rate-
24 paying residential customer of that public service district. For purposes of this section, "rate-
25 paying residential customer" means a person who:

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

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

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

32 Each board member shall, within six months of taking office, successfully complete the
33 training program to be established and administered by the Public Service Commission in
34 conjunction with the Department of Environmental Protection and the Bureau for Public Health.
35 Board members shall not be or become pecuniarily interested, directly or indirectly, in the
36 proceeds of any contract or service, or in furnishing any supplies or materials to the district nor
37 shall a former board member be hired by the district in any capacity within a minimum of twelve
38 months after board member's term has expired or such board member has resigned from the
39 district board. The members shall be appointed in the following manner:

40 Each city, incorporated town or other municipal corporation having a population of more

41 than ~~three thousand~~ five hundred but less than ~~eighteen~~ ten thousand is entitled to appoint one
42 member of the board, and each city, incorporated town or other municipal corporation having a
43 population in excess of ~~eighteen~~ ten thousand shall be entitled to appoint one additional member
44 of the board for each additional ~~eighteen~~ ten thousand population. ~~The members~~ Members of the
45 board representing such cities, incorporated towns or other municipal corporations shall be
46 residents thereof and shall be appointed by a resolution of the governing bodies. ~~thereof and upon~~
47 Upon the filing of a certified copy or copies of the resolution or resolutions in the office of the clerk
48 of the county commission which entered the order creating the district, the persons so appointed
49 become members of the board without any further act or proceedings. If the number of members
50 of the board so appointed by the governing bodies of cities, incorporated towns or other municipal
51 corporations included in the district equals or exceeds ~~three~~ four, then no further members shall
52 be appointed to the board and the members so appointed are the board of the district except in
53 cases of merger or consolidation where the number of board members may equal ~~five~~ seven.

54 If no city, incorporated town or other municipal corporation having a population of more
55 than ~~three thousand~~ five hundred is included within the district, then the county commission which
56 entered the order creating the district shall appoint three members of the board, who are persons
57 residing within the district ~~and residing within the State of West Virginia~~ which three members
58 become members of the board of the district without any further act or proceedings except in
59 cases of merger or consolidation where the number of board members may equal five.

60 If the number of members of the board appointed by the governing bodies of cities,
61 incorporated towns or other municipal corporations included within the district is less than ~~three~~,
62 four then the county commission which entered the order creating the district shall appoint such
63 additional member or members of the board, who are persons residing within the district, as is
64 necessary to make the number of members of the board equal three except in cases of merger
65 or consolidation where the number of board members may equal ~~five~~ up to seven, and the
66 member or members appointed by the governing bodies of the cities, incorporated towns or other

67 municipal corporations included within the district and the additional member or members
68 appointed by the county commission as aforesaid, are the board of the district. A person may
69 serve as a member of the board in one or more public service districts.

70 The population of any city, incorporated town or other municipal corporation, for the
71 purpose of determining the number of members of the board, if any, to be appointed by the
72 governing body or bodies thereof, is the population stated for such city, incorporated town or other
73 municipal corporation in the last official federal census.

74 Notwithstanding any provision of this code to the contrary, whenever a district is
75 consolidated or merged pursuant to section two of this article, the terms of office of the existing
76 board members shall end on the effective date of the merger or consolidation. The county
77 commission shall appoint a new board according to rules promulgated by the Public Service
78 Commission. Whenever districts are consolidated or merged no provision of this code prohibits
79 the expansion of membership on the new board to ~~five~~ no more than seven.

80 The respective terms of office of the members of the first board shall be fixed by the county
81 commission and shall be as equally divided as may be, that is approximately one third of the
82 members for a term of two years, a like number for a term of four years, the term of the remaining
83 member or members for six years, from the first day of the month during which the appointments
84 are made. The first members of the board appointed as aforesaid shall meet at the office of the
85 clerk of the county commission which entered the order creating the district as soon as practicable
86 after the appointments and shall qualify by taking an oath of office: *Provided*, That any member
87 or members of the board may be removed from their respective office as provided in section three-
88 a of this article.

89 Any vacancy shall be filled for the unexpired term within thirty days; otherwise successor
90 members of the board shall be appointed for terms of six years and the terms of office shall
91 continue until successors have been appointed and qualified. All successor members shall be
92 appointed in the same manner as the member succeeded was appointed. The district shall

93 provide to the Public Service Commission, within thirty days of the appointment, the following
94 information: The new board member's name, home address, home and office phone numbers,
95 date of appointment, length of term, who the new member replaces and if the new appointee has
96 previously served on the board. The Public Service Commission shall notify each new board
97 member of the legal obligation to attend training as prescribed in this section.

98 The board shall organize within thirty days following the first appointments and annually
99 thereafter at its first meeting after January 1 of each year by selecting one of its members to serve
100 as chair and by appointing a secretary and a treasurer who need not be members of the board.
101 The secretary shall keep a record of all proceedings of the board which shall be available for
102 inspection as other public records. Duplicate records shall be filed with the county commission
103 and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds
104 of the public service district and shall pay ~~same~~ the funds out on orders authorized or approved
105 by the board. The secretary and treasurer shall perform other duties appertaining to the affairs of
106 the district and shall receive reasonable salaries as shall be ~~prescribed by~~ voted by a majority of
107 the board. The treasurer shall furnish bond in an amount to be fixed by the board for the use and
108 benefit of the district.

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

NOTE: The purpose of this bill is to decrease the population size of towns that may appoint a member to a public service board. The bill decreases the population size of towns that may appoint additional members to the board. The bill increases the number of board members in certain cases. The bill provides that the secretary and treasurers of the boards are to paid reasonable salaries approved by a majority of the board members.

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