

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Engrossed

Senate Bill 202

BY SENATOR WELD

[Introduced January 9, 2020; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §16-13A-3 of the Code of West Virginia, 1931, as amended, relating
2 to allowing one member of a public district service board to be a county commissioner of
3 the county commission with authority to appoint the members of the board, regardless of
4 whether the commissioner resides within the district.

Be it enacted by the Legislature of West Virginia:

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
4 its 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 stormwater 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~~ may extend
13 beyond a maximum of 40 years, but provisions may be included therein for a renewal or
14 successive renewals thereof and shall conform to and comply with the rights of the holders of any
15 outstanding 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

19 to operating a public service district, with the exception, however, that in the event a public service
20 board has had a vacancy for more than one year one member of the public service board may be
21 a county commissioner of the county commission with authority to appoint the members of the
22 board regardless of whether the commissioner resides within the district. In the event the public
23 service district is providing any utility service and billing rates and charges to its customers, at
24 least one board member shall be a rate-paying residential customer of the public service district:
25 *Provided*, That if an existing public service board does not have a member who is a rate-paying
26 residential customer of the public service district on July 1, 2013, the next following appointment
27 to the board shall be a rate-paying residential customer of that public service district. For purposes
28 of this section, "rate-paying residential customer" means a person who:

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

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

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

35 Each board member shall, within six months of taking office, successfully complete the
36 training program to be established and administered by the Public Service Commission in
37 conjunction with the Department of Environmental Protection and the Bureau for Public Health.

38 Board members ~~shall~~ may not be or become pecuniarily interested, directly or indirectly, in the
39 proceeds of any contract or service, or in furnishing any supplies or materials to the district nor
40 ~~shall~~ may a former board member be hired by the district in any capacity within a minimum of 12
41 months after the board member's term has expired or ~~such~~ the board member has resigned from
42 the district board. The members shall be appointed in the following manner:

43 Each city, incorporated town, or other municipal corporation having a population of more
44 than 3,000 but less than 18,000 is entitled to appoint one member of the board, and each city,

45 incorporated town, or other municipal corporation having a population in excess of 18,000 shall
46 be entitled to appoint one additional member of the board for each additional 18,000 in population.
47 The members of the board representing such cities, incorporated towns, or other municipal
48 corporations shall be residents thereof and shall be appointed by a resolution of the governing
49 bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in
50 the office of the clerk of the county commission which entered the order creating the district, the
51 persons so appointed become members of the board without any further act or proceedings. If
52 the number of members of the board so appointed by the governing bodies of cities, incorporated
53 towns, or other municipal corporations included in the district equals or exceeds three, then no
54 further members shall be appointed to the board and the members so appointed are the board of
55 the district except in cases of merger or consolidation where the number of board members may
56 equal five.

57 If no city, incorporated town, or other municipal corporation having a population of more
58 than 3,000 is included within the district, then the county commission which entered the order
59 creating the district shall appoint three members of the board, who are persons residing within
60 the district and residing within the state of West Virginia, which three members become members
61 of the board of the district without any further act or proceedings except in cases of merger or
62 consolidation where the number of board members may equal five.

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

71 county commission as aforesaid, are the board of the district. A person may serve as a member
72 of the board in one or more public service districts.

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

77 Notwithstanding any provision of this code to the contrary, whenever a district is
78 consolidated or merged pursuant to §16-13A-2 of this code, the terms of office of the existing
79 board members shall end on the effective date of the merger or consolidation. The county
80 commission shall appoint a new board according to rules promulgated by the Public Service
81 Commission. Whenever districts are consolidated or merged no provision of this code prohibits
82 the expansion of membership on the new board to five.

83 The respective terms of office of the members of the first board shall be fixed by the county
84 commission and shall be as equally divided as may be, that is approximately one third of the
85 members for a term of two years, a like number for a term of four years, the term of the remaining
86 member or members for six years, from the first day of the month during which the appointments
87 are made. The first members of the board appointed as aforesaid shall meet at the office of the
88 clerk of the county commission which entered the order creating the district as soon as practicable
89 after the appointments and shall qualify by taking an oath of office: *Provided*, That any member
90 or members of the board may be removed from their respective office as provided in §16-13A-3a
91 of this code.

92 Any vacancy shall be filled for the unexpired term within 30 days; otherwise successor
93 members of the board shall be appointed for terms of six years and the terms of office shall
94 continue until successors have been appointed and qualified. All successor members shall be
95 appointed in the same manner as the member succeeded was appointed. The district shall
96 provide to the Public Service Commission, within 30 days of the appointment, the following

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

101 The board shall organize within 30 days following the first appointments and annually
102 thereafter at its first meeting after January 1 of each year by selecting one of its members to serve
103 as chair and by appointing a secretary and a treasurer who need not be members of the board.
104 The secretary shall keep a record of all proceedings of the board which shall be available for
105 inspection as other public records. Duplicate records shall be filed with the county commission
106 and shall include the minutes of all board meetings. The treasurer is lawful custodian of all funds
107 of the public service district and shall pay same out on orders authorized or approved by the
108 board. The secretary and treasurer shall perform other duties appertaining to the affairs of the
109 district and shall receive salaries as shall be prescribed by the board. The treasurer shall furnish
110 bond in an amount to be fixed by the board for the use and benefit of the district.

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