

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

Introduced

### House Bill 2158

FISCAL  
NOTE

BY DELEGATES J. JEFFRIES, PAYNTER AND BRIDGES

[Introduced February 10, 2021; Referred to the Committee  
on Government Organization then the Judiciary]

1 A BILL to amend and reenact §24-1-3 of the Code of West Virginia, 1931, as amended, relating  
 2 to the Public Service Commission; providing for election and removal of commissioners;  
 3 setting terms of office for elected commissioners; removing the requirement that at least  
 4 one commissioner be an attorney; and removing the prohibition that no more than two  
 5 commissioners be from the same political party.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. GENERAL PROVISIONS.**

### **§24-1-3. Commission continued; membership; chairman; compensation; quorum; election of commissioners.**

1 (a) The Public Service Commission of West Virginia is continued and directed as provided  
 2 by this chapter, chapter 24A, chapter 24B and chapter 24D of this code. The Public Service  
 3 Commission may sue and be sued by that name.

4 (b) The Public Service Commission shall consist of three members who shall be appointed  
 5 by the Governor, with the advice and consent of the Senate. (1) The commissioners shall be  
 6 citizens and residents of this state; and (2) at least one of them shall be duly licensed to practice  
 7 law in West Virginia, with not less than 10 years' actual work experience in the legal profession  
 8 as a member of a State Bar: *Provided, That this does not apply when commissioners are elected.*

9 (c) No more than two of the commissioners shall be members of the same political party:  
 10 *Provided, That this does not apply when commissioners are elected.*

11 (d) Each commissioner shall, before entering upon the duties of his or her office, take and  
 12 subscribe to the oath provided by section five, article IV of the Constitution of West Virginia. The  
 13 oath shall be filed in the office of the Secretary of State.

14 (e) The Governor shall designate one of the commissioners to serve as ~~chairman~~  
 15 chairperson at the Governors' will and pleasure. Once the commissioners are elected, the  
 16 commissioners shall annually select one member to serve as chairperson. ~~The chairman shall be~~  
 17 chairperson is the chief administrative officer of the commission. The Governor may remove any

18 commissioner only for incompetency, neglect of duty, gross immorality, malfeasance in office, or  
19 violation of subsections ~~(g)~~ (h) and ~~(h)~~ (i) of this section.

20 (f) Upon expiration of the terms, appointments are for terms of six years, except that an  
21 appointment to fill a vacancy is for the unexpired term only: Provided, That a commissioner may  
22 serve until the end of the commissioner's term or until the elected commissioner takes office,  
23 whichever first occurs.

24 (g) A commissioner shall be elected at the general election to be held in the year 2022,  
25 for a term of two years, one commissioner shall be elected at the general election held in the year  
26 2022 for a term of four years, one commissioner shall be elected at the general election held in  
27 the year 2022 for a term of six years, all the terms beginning on January 1, 2023. All future  
28 elections are for terms of six years, except that an election to fill a vacancy is for the unexpired  
29 term only. The commissioners whose terms are terminated by the provisions of this subsection  
30 are eligible for election.

31 ~~(g)~~ (h) No person while in the employ of, or holding any official relation to, any public utility  
32 subject to the provisions of this chapter or holding any stocks or bonds of a public utility subject  
33 to the provisions of this chapter or who is pecuniarily interested in a public utility subject to the  
34 provisions of this chapter may be elected to serve as a member of the commission or as an  
35 employee of the commission.

36 ~~(h)~~ (i) Nor may any commissioner be a candidate for or hold public office or be a member  
37 of any political committee while acting as a commissioner; nor may any commissioner or  
38 employee of the commission receive any pass, free transportation, or other thing of value, either  
39 directly or indirectly, from any public utility or motor carrier subject to the provisions of this chapter.  
40 ~~In case any of the commissioners~~ If a commissioner becomes a candidate for any public office or  
41 a member of any political committee, ~~the Governor shall remove him or her from office and shall~~  
42 ~~appoint a new commissioner to fill the vacancy created~~ except as a candidate for commissioner  
43 under this section, the commissioner automatically forfeits his or her office and a vacancy exists

44 in that commissioner's office.

45           ~~(j)~~ (j) The annual salary of each commissioner provided in §6-7-2a of this code shall be  
46 paid at least twice per month from the special funds in the percentages that follow:

47           (1) From the Public Service Commission Fund collected under ~~the provisions of~~ §24-3-6  
48 of this code, 80 percent;

49           (2) From the Public Service Commission Motor Carrier Fund collected ~~under the~~  
50 ~~provisions of~~ §24A-6-6 of this code, 17 percent; and

51           (3) From the Public Service Commission Gas Pipeline Safety Fund collected under ~~the~~  
52 ~~provisions of~~ §24B-5-3 of this code, three percent.

53           ~~(j)~~ (k) In addition to the salary provided for all commissioners in §6-7-2a of this code, the  
54 ~~chairman~~ chairperson of the commission shall receive \$5,000 per annum to be paid at least twice  
55 per month from the Public Service Commission Fund collected under ~~the provisions of~~ §24-3-6 of  
56 this code.

NOTE: The purpose of this bill is to provide for the election and removal of public service commissioners, setting terms of office for the commissioners. The bill removes the requirement that at least one commissioner be an attorney and removes the prohibition that no more than two commissioners be from the same political party.

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