

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **House Bill 3268**

BY DELEGATES PAYNTER, GEARHEART, G. WARD, DEAN,

BRIDGES AND SMITH

[Introduced March 16, 2021; Referred to the

Committee on the Judiciary]

1 A BILL to amend and reenact §24-2-2 of the Code of West Virginia, 1931, as amended, relating  
 2 to the powers of the Public Service Commission; and requiring independent third party  
 3 audits of public utilities with 2000 or more customers.

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

**ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.**

**§24-2-2. General power of commission to regulate public utilities.**

1 (a) The commission may investigate all rates, methods, and practices of public utilities  
 2 subject to the provisions of this chapter; to require them to conform to the laws of this state and  
 3 to all rules, regulations and orders of the commission not contrary to law; and to require copies of  
 4 all reports, rates, classifications, schedules, and timetables in effect and used by the public utility  
 5 or other person to be filed with the commission, and all other information desired by the  
 6 commission relating to the investigation and requirements, including inventories of all property in  
 7 the form and detail as the commission prescribes. The commission may compel obedience to its  
 8 lawful orders by mandamus or injunction or other proper proceedings in the name of the state in  
 9 any circuit court having jurisdiction of the parties or of the subject matter, or the Supreme Court  
 10 of Appeals directly, and the proceedings shall have priority over all pending cases. The  
 11 commission may change any intrastate rate, charge, or toll which is unjust or unreasonable or  
 12 any interstate charge with respect to matters of a purely local nature which have not been  
 13 regulated, by or pursuant to, an act of Congress and may prescribe a rate, charge, or toll that is  
 14 just and reasonable, and change or prohibit any practice, device, or method of service in order to  
 15 prevent undue discrimination or favoritism between persons and between localities and between  
 16 commodities for a like and contemporaneous service. But in no case may the rate, toll, or charge  
 17 be more than the service is reasonably worth, considering the cost of the service. Every order  
 18 entered by the commission shall continue in force until the expiration of the time, if any, named  
 19 by the commission in the order, or until revoked or modified by the commission, unless the order  
 20 is suspended, modified, or revoked by order or decree of a court of competent jurisdiction:

21 Provided, That in the case of utilities used by emergency shelter providers, the commission shall  
22 prescribe rates, charges or tolls that are the lowest available. "Emergency shelter provider" means  
23 any nonprofit entity which provides temporary emergency housing and services to the homeless  
24 or to victims of domestic violence or other abuse.

25 (b) Notwithstanding any other provision of this code to the contrary, rates are not  
26 discriminatory if, when considering the debt costs associated with a future water or sewer project  
27 which would not benefit existing customers, the commission establishes rates which ensure that  
28 the future customers to be served by the new project are solely responsible for the debt costs  
29 associated with the project.

30 (c) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the  
31 commission over water and/or sewer utilities that are political subdivisions of the state providing  
32 a separate or combined services and having at least 4,500 customers and annual combined gross  
33 revenues of \$3 million or more is limited to those powers enumerated in §24-2-1(b) of this code.

34 (d) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the  
35 commission does not extend over the setting or adjustment of rates, fees, and charges of  
36 municipal power systems. The rates, fees, charges, and rate-making process of municipal power  
37 systems is governed by the provisions of §8-19-2a of this code.

38 (e) Notwithstanding any other provision of this code to the contrary, effective July 1, 2021,  
39 and every three years thereafter, the commission shall require an independent third party audit of  
40 all utilities under the jurisdiction of the commission having 2000 or more customers.

NOTE: The purpose of this bill is to require independent third party audits of public utilities with 2000 or more customers under the jurisdiction of the Public Service Commission.

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