

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4383

FISCAL
NOTE

BY DELEGATES ROWE, HANSEN, BARACH, GARCIA,
LOVEJOY, HORNBUCKLE, WILLIAMS, FLUHARTY, EVANS,
PUSHKIN, AND WALKER

[Introduced January 25, 2022; Referred to the
Committee on Government Organization then
Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §24-9-1, §24-9-2, and §24-9-3, all relating to establishing the consumer
 3 advocate division as a separate, independent agency; providing for legislative findings;
 4 providing the purpose of the Consumer Advocate Division; providing for a report to the
 5 Joint Committee on Government and Finance and the Governor; and distinguishing the
 6 consumer advocate division as an independent agency that is separate from the Public
 7 Service Commission.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. CONSUMER ADVOCATE DIVISION AS INDEPENDENT AGENCY.

§24-9-1. Findings.

1 (a) The Legislature finds that the Consumer Advocate Division, while having previously
 2 been classified under the Public Service Commission in §24-1-1 et seq. of this Code, the best
 3 means to proceed with its initial purpose shall be to classify it as an independent agency. While
 4 the Consumer Advocate Division may necessarily need to coordinate with the Public Service
 5 Commission to transition to its own independent agency, any powers and authority going forward
 6 shall be separate and apart from the Public Service Commission.

7 (b) The Consumer Advocate Division shall continue to act as an advocate for the position
 8 of and in the interest of residential customers, as otherwise defined in §24-1-1 et seq. of this code.

9 (c) The Consumer Advocate Division shall be funded by special revenue funds of the
 10 Public Service Commission and a supplemental appropriation by the Legislature to have its
 11 existing budget increased for the division to be able to hire specialized staff and expert witnesses
 12 to assist the Consumer Advocate Division for handling cases on as-needed basis.

§24-9-2. Purpose; report required.

1 (a) The Consumer Advocate Division ("CAD") was created by the West Virginia
 2 Legislature in 1981 to represent the interests of residential customers of gas, water, telephone,
 3 and electric services before the Public Service Commission ("PSC"). While the CAD was

4 previously a division of the PSC, it is now established as its own independent agency from the
5 PSC and shall hereafter have a separate budget and clerical staff to be funded by the Legislature
6 from special revenue funds of the PSC.

7 (b) CAD shall be led by a director who is appointed by the Governor. The director shall be
8 a West Virginia resident and be admitted to the practice of law in West Virginia. The director shall
9 oversee a modest staff which includes legal, technical, and support personnel. The director shall
10 retain expert consultants as needed. In addition, the director shall meet regularly with the
11 appropriate legislative committees and subcommittees to discuss the operation of CAD. Finally,
12 on or before the first day of each regular session of the Legislature, the director shall file a report
13 with the Joint Committee on Government and Finance and the Governor detailing the actions
14 taken by CAD in the preceding calendar year and the results achieved.

15 (c) Historically, utilities have had the exclusive right to provide services in designated
16 areas. Because utilities have no competition for services, they are regulated to ensure reasonable
17 costs. As a result, utilities must seek approval from the PSC for any rate increases they want to
18 charge customers. CAD shall represent the interests of West Virginia residents in these rate
19 proceedings before the PSC as a separate, independent agency.

20 (d) Pursuant to serving the interests of West Virginia residents, CAD is authorized to
21 evaluate all matters pending before the PSC to determine if the interests of residential utility
22 customers are affected; petition the PSC to initiate proceedings to protect the interests of
23 customers; appear before the PSC as an independent party on behalf of customers; appeal any
24 determination, finding, or order of the PSC determined by CAD to be adverse to the interests of
25 customers; and appear on behalf of customers before other state agencies, federal agencies, and
26 in state and federal courts. In protecting the interests of residential utility customers before the
27 PSC, CAD performs independent analyses, presents testimony of expert witnesses, cross-
28 examines utility witnesses, and files recommendations and briefs with the PSC as its own
29 independent agency.

30 (e) CAD shall remain a member of the National Association of State Utilities Consumer
 31 Advocates (“NASUCA”), an association of 44 consumer advocates in 42 states and the District of
 32 Columbia. The director of CAD shall continue to serve on various NASUCA committees.

33 (f) Since CAD represents the interests of residential utility customers as a class, it does
 34 not provide specific legal representation of individuals for individual problems. If an individual has
 35 a problem with service or billing, that individual should attempt to resolve the matter informally
 36 first. If a case is not resolved, an individual may file a formal complaint with the consumer advocate
 37 division and the case will ultimately be heard by an administrative law judge.

§24-9-3. Consumer advocate division as separate, independent agency.

1 As of the date of the passage of this article, the Consumer Advocate Division shall act as
 2 an independent agency, separate and apart from the Public Service Commission.

NOTE: The purpose of this bill is to establish the consumer advocate division as a separate, independent agency. The bill provides for legislative findings, provides the purpose of the consumer advocate division, and distinguishes the consumer advocate division as an independent agency that is separate from 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.