

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2212

By Delegate Mallow

[Introduced January 11, 2023; Referred to the
Committee on Political Subdivisions then Government
Organization]

1 A BILL to amend and reenact §16-13A-3 of the Code of West Virginia, 1931, as amended, relating
 2 to providing that if a public service board represents more than one community, there shall
 3 be one member from each such community on the service district board.

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 is
 2 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 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 the
 11 existing municipally owned public service properties of any city, incorporated town, or other
 12 municipal corporation included within the district: *Provided*, That no contract may extend beyond a
 13 maximum of 40 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, 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 a
21 county commissioner of the county commission with authority to appoint the members of the board
22 regardless of whether the commissioner resides within the district: *Provided, That if a public*
23 service board represents more than one community, there shall be one member from each such
24 community on the service district board. ~~In the event~~ If the public service district is providing any
25 utility service and billing rates and charges to its customers, at least one board member shall be a
26 rate-paying residential customer of the public service district: *Provided, however,* That if an
27 existing public service board does not have a member who is a rate-paying residential customer of
28 the public service district on July 1, 2013 2023, the next following appointment to the board shall
29 be a rate-paying residential customer of that public service district. For purposes of this section,
30 "rate-paying residential customer" means a person who:

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

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

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

37 Each board member shall, within six months of taking office, successfully complete the
38 training program to be established and administered by the Public Service Commission in
39 conjunction with the Department of Environmental Protection and the Bureau for Public Health.
40 Board members may not be or become pecuniarily interested, directly or indirectly, in the proceeds
41 of any contract or service, or in furnishing any supplies or materials to the district nor may a former
42 board member be hired by the district in any capacity within a minimum of 12 months after the
43 board member's term has expired or the board member has resigned from the district board. The
44 members shall be appointed in the following manner:

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

46 than 3,000 but less than 18,000 is entitled to appoint one member of the board, and each city,
47 incorporated town, or other municipal corporation having a population in excess of 18,000 shall be
48 entitled to appoint one additional member of the board for each additional 18,000 in population.
49 The members of the board representing such cities, incorporated towns, or other municipal
50 corporations shall be residents thereof and shall be appointed by a resolution of the governing
51 bodies thereof and upon the filing of a certified copy or copies of the resolution or resolutions in the
52 office of the clerk of the county commission which entered the order creating the district, the
53 persons so appointed become members of the board without any further act or proceedings. If the
54 number of members of the board so appointed by the governing bodies of cities, incorporated
55 towns, or other municipal corporations included in the district equals or exceeds three, then no
56 further members shall be appointed to the board and the members so appointed are the board of
57 the district except in cases of merger or consolidation where the number of board members may
58 equal five.

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

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

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

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

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

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

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

98 provide to the Public Service Commission, within 30 days of the appointment, the following
99 information: The new board member's name, home address, home and office phone numbers,
100 date of appointment, length of term, who the new member replaces, and if the new appointee has
101 previously served on the board. The Public Service Commission shall notify each new board
102 member of the legal obligation to attend training as prescribed in this section.

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

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

NOTE: The purpose of this bill is to provide that if a public service board represents more than one community, there shall be one member from each such community on the service district board. The bill also includes updated technical changes.

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