

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2079**

By Delegates Kump, Hillenbrand, Ridenour, and Horst

[Introduced February 12, 2025; referred  
to the Committee on Energy and Public Works]

1 A BILL to a to amend and reenact §16-13A-9, of the Code of West Virginia, 1931, as amended,  
2 relating to prohibiting mandatory hook-ups and installation fees for new or expanding  
3 sewer systems.

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

**ARTICLE 13A. RULES; SERVICE RATES AND CHARGES; DISCONTINUANCE OF  
SERVICE; REQUIRED WATER AND SEWER CONNECTIONS; LIEN FOR  
DELINQUENT FEES.**

**§16-13A-9. Rules; service rates and charges; discontinuance of service; ~~required water and~~  
~~sewer~~ ~~connections~~; lien for delinquent fees.**

1 (a)(1) The board may make, enact, and enforce all needful rules in connection with the  
2 acquisition, construction, improvement, extension, management, maintenance, operation, care,  
3 protection, and the use of any public service properties owned or controlled by the district. The  
4 board shall establish, in accordance with this article, rates, fees, and charges for the services and  
5 facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any  
6 other law or laws, to pay the cost of maintenance, operation, and depreciation of the public service  
7 properties and principal of and interest on all bonds issued, other obligations incurred under the  
8 provisions of this article, and all reserve or other payments provided for in the proceedings which  
9 authorized the issuance of any bonds under this article. The schedule of the rates, fees, and  
10 charges may be based upon:

11 (A) The consumption of water or gas on premises connected with the facilities, taking into  
12 consideration domestic, commercial, industrial, and public use of water and gas;

13 (B) The number and kind of fixtures connected with the facilities located on the various  
14 premises;

15 (C) The number of persons served by the facilities;

16 (D) Any combination of paragraphs (A), (B), and (C) of this subdivision; or

(E) Any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. However, no rates, fees, or charges for stormwater services may be assessed against highways, road, and drainage easements or stormwater facilities constructed, owned, or operated by the West Virginia Division of Highways.

(2) The board of a public service district with at least 4,500 customers and annual combined gross revenue of \$3 million providing water or sewer service separately or in combination may make, enact, and enforce all needful rules in connection with the enactment or amendment of rates, fees, and charges of the district. At a minimum, these rules shall provide for:

(A) Adequate prior public notice of the contemplated rates, fees, and charges by causing a notice of intent to effect such a change to be provided to the customers of the district for the month immediately preceding the month in which the contemplated change is to be considered at a hearing by the board. The notice shall include a statement that a change in rates, fees, and charges is being considered, the time, date, and location of the hearing of the board at which the change will be considered and that the proposed rates, fees, and charges are on file at the office of the district for review during regular business hours. The notice shall be printed on, or mailed with, the monthly billing statement, or provided in a separate mailing.

(B) Adequate prior public notice of the contemplated rates, fees, and charges by causing to be published, after the first reading and approval of a resolution of the board considering the revised rates, fees, and charges but not less than one week prior to the public hearing of the board on the resolution, as a Class I legal advertisement, of the proposed action, in compliance with the provisions of §59-3-1 *et seq.* of this code. The publication area for publication shall be all territory served by the district. If the district provides service in more than one county, publication shall be made in a newspaper of general circulation in each county that the district provides service.

(C) The public notice of the proposed action shall summarize the current rates, fees, and charges and the proposed changes to said rates, fees, and charges; the date, time, and place of

the public hearing on the resolution approving the revised rates, fees, and charges and the place or places within the district where the proposed resolution approving the revised rates, fees, and charges may be inspected by the public. A reasonable number of copies of the proposed resolution shall be kept at the place or places and be made available for public inspection. The notice shall also advise that interested parties may appear at the public hearing before the board and be heard with respect to the proposed revised rates, fees, and charges.

(D) The resolution proposing the revised rates, fees, and charges shall be read at two meetings of the board with at least two weeks intervening between each meeting. The public hearing may be conducted by the board prior to, or at, the meeting at which the resolution is considered for adoption on the second reading.

(E) Rates, fees, and charges approved by resolution of the board shall be forwarded in writing to the county commission with the authority to appoint the members of the board. The county commission shall publish notice of the proposed revised rates, fees, and charges by a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code. Within 45 days of receipt of the proposed rates, fees, and charges, the county commission shall take action to approve, modify, or reject the proposed rates, fees, and charges, in its sole discretion. If, after 45 days, the county commission has not taken final action to approve, modify, or reject the proposed rates, fees, and charges, as presented to the county commission, shall be effective with no further action by the board or county commission. In any event, this 45-day period shall be mandatory unless extended by the official action of both the board proposing the rates, fees, and charges, and the appointing county commission.

(F) Enactment of the proposed or modified rates, fees, and charges shall follow an affirmative vote by the county commission and shall be effective no sooner than 45 days following action. The 45-day waiting period may be waived by public vote of the county commission only if the commission finds and declares the district to be in financial distress such that the 45-day waiting period would be detrimental to the ability of the district to deliver continued and compliant

69 public services.

70 (G) The public service district, or a customer aggrieved by the changed rates or charges  
71 who presents to the circuit court a petition signed by at least 750 customers or 25 percent of the  
72 customers served by the public service district, whichever is fewer, when dissatisfied by the  
73 approval, modification, or rejection by the county commission of the proposed rates, fees, and  
74 charges under the provisions of this subdivision may file a complaint regarding the rates, fees, and  
75 charges resulting from the action of, or failure to act by, the county commission in the circuit court  
76 of the county in which the county commission sits: *Provided*, That any complaint or petition filed  
77 hereunder shall be filed within 30 days of the county commission's final action approving,  
78 modifying, or rejecting the rates, fees, and charges, or the expiration of the 45-day period from the  
79 receipt by the county commission, in writing, of the rates, fees, and charges approved by  
80 resolution of the board, without final action by the county commission to approve, modify, or reject  
81 the rates, fees, and charges, and the circuit court shall resolve the complaint: *Provided, however*,  
82 That the rates, fees, and charges so fixed by the county commission, or those adopted by the  
83 district upon which the county commission failed to act, shall remain in full force and effect, until set  
84 aside, altered, or amended by the circuit court in an order to be followed in the future.

85 (3) Where water, sewer, stormwater, or gas services, or any combination thereof, are all  
86 furnished to any premises, the schedule of charges may be billed as a single amount for the  
87 aggregate of the charges. The board shall require all users of services and facilities furnished by  
88 the district to designate on every application for service whether the applicant is a tenant or an  
89 owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and  
90 address of the owner or owners of the premises to be served by the district. Notwithstanding the  
91 provisions of §24-3-8 of this code to the contrary, all new applicants for service shall deposit the  
92 greater of a sum equal to two twelfths of the average annual usage of the applicant's specific  
93 customer class or \$50 with the district to secure the payment of service rates, fees, and charges in  
94 the event they become delinquent as provided in this section. If a district provides both water and

sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or \$50 and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or \$50. In any case where a deposit is forfeited to pay service rates, fees, and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or \$50 has been remitted to the district. After 12 months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals, or charges for services or facilities furnished remain unpaid for a period of 20 days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees, and charges are fully paid. The board may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, 10 days after the water or gas services become delinquent: *Provided, however*, That nothing contained within the rules of the Public Service Commission may be considered to require any agents or employees of the board to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(b) If any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separate water facilities, sewer facilities, or stormwater facilities, and the district owns and operates another kind of facility, either water or sewer, or both, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall covenant and contract with each other to shut off and discontinue the

supplying of water service for the nonpayment of sewer or stormwater service fees and charges: *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and stormwater service or water, sewer, and stormwater service has the right to terminate water service for delinquency in payment of water, sewer, or stormwater bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer or stormwater district is providing water service and the district providing sewer or stormwater service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or stormwater district that is providing water service, upon the request of the district providing sewer or stormwater service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or stormwater account: *Provided, however*, That any termination of water service must comply with all rules and orders of the Public Service Commission: *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the public service districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

~~(c) Any district furnishing sewer facilities within the district may require or may, by petition to the circuit court of the county in which the property is located, compel or may require the Bureau for Public Health to compel all owners, tenants, or occupants of any houses, dwellings, and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the Bureau for Public Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of §16-1-9 of this code, from the houses, dwellings, or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment, and disposal of sewage and waste matters from the houses, dwellings, and buildings where there is gravity flow or transportation by~~

~~any other methods approved by the Bureau for Public Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of §16-1-9 of this code and the houses, dwellings, and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this subsection is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance, and purchase of a pump or any other method approved by the Bureau for Public Health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than 30 days after service of petition to the appropriate owners, tenants, or occupants~~

(d)(c) Whenever any district has made available sewer facilities to any owner, tenant, or occupant of any house, dwelling, or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant, or occupant and sewage will flow by gravity or be transported by other methods approved by the Bureau for Public Health from the house, dwelling, or building into the sewer facilities, the district may charge, and the owner, tenant, or occupant shall pay, the rates and charges for services established under this article only after 30 days' notice of the availability of the facilities has been received by the owner, tenant, or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the average monthly water consumption based upon the owner's, tenant's, or occupant's specific customer class.

(e)(d) The owner, tenant, or occupant of any real property may be determined and declared



173 to be served by a stormwater system only after each of the following conditions is met: (1) The  
174 district has been designated by the Environmental Protection Agency as an entity to serve a West  
175 Virginia Separate Storm Sewer System community, as defined in 40 C. F. R. §122.26; (2) the  
176 district's authority has been properly expanded to operate and maintain a stormwater system; (3)  
177 the district has made available a stormwater system where stormwater from the real property  
178 affects or drains into the stormwater system; and (4) the real property is located in the Municipal  
179 Separate Storm Sewer System's designated service area. It is further hereby found, determined,  
180 and declared that the mandatory use of the stormwater system is necessary and essential for the  
181 health and welfare of the inhabitants and residents of the district and of the state. The district may  
182 charge and the owner, tenant, or occupant shall pay the rates, fees, and charges for stormwater  
183 services established under this article only after 30 days' notice of the availability of the stormwater  
184 system has been received by the owner. An entity providing stormwater service shall provide a  
185 tenant a report of the stormwater fee charged for the entire property and, if appropriate, that  
186 portion of the fee to be assessed to the tenant.

187 ~~(f)~~(e) All delinquent fees, rates, and charges of the district for either water facilities, sewer  
188 facilities, gas facilities, or stormwater systems or stormwater management programs are liens on  
189 the premises served of equal dignity, rank, and priority with the lien on the premises of state,  
190 county, school, and municipal taxes. Nothing contained within the rules of the Public Service  
191 Commission may require agents or employees of the public service districts to accept payment at  
192 the customer's premises in lieu of discontinuing service for a delinquent bill. In addition to the other  
193 remedies provided in this section, public service districts are granted a deferral of filing fees or  
194 other fees and costs incidental to the bringing and maintenance of an action in magistrate court for  
195 the collection of delinquent water, sewer, stormwater, or gas bills. If the district collects the  
196 delinquent account, plus reasonable costs, from its customer or other responsible party, the district  
197 shall pay to the magistrate the normal filing fee and reasonable costs which were previously  
198 deferred. In addition, each public service district may exchange with other public service districts a

list of delinquent accounts: *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property unless the owner has contracted directly with the public service district to purchase the services or facilities.

~~(g)~~(f) Anything in this section to the contrary notwithstanding, any establishment, as defined in §22-11-3 of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by §22-11-11 of this code, is exempt from the provisions of this section.

~~(h)~~(g) Notwithstanding any code provision to the contrary, a public service district may accept payment for all fees and charges due, in the form of a payment by a credit or check card transaction or a direct withdrawal from a bank account. The public service district may set a fee to be added to each transaction equal to the charge paid by the public service district for use of the credit or check card or direct withdrawal by the payor. The amount of the fee shall be disclosed to the payor prior to the transaction and no other fees for the use of a credit or check card or direct withdrawal may be imposed upon the payor and the whole of the charge or convenience fee shall be borne by the payor: *Provided*, That to the extent a public service district desires to accept payments in the forms described in this subsection and does not have access to the equipment or receive the services necessary to do so, the public service district shall first obtain three bids for services and equipment necessary to affect the forms of transactions described in this subsection and use the lowest qualified bid received. Acceptance of a credit or check card or direct withdrawal as a form of payment shall comport with the rules and requirements set forth by the credit or check card provider or banking institution.

NOTE: The purpose of this bill is to prohibit mandatory hook-ups and installation fees for new or expanding sewer systems.

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