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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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# ENROLLED

HOUSE BILL No. 2108

(By  Del. Phillips + Roop )

— ● —

Passed ..... April 8, ..... 1989

In Effect ..... from ..... Passage

**ENROLLED**  
**H. B. 2108**

(By DELEGATES PHYLLIPS AND ROOP)

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[Passed April 8, 1989; in effect from passage.]

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AN ACT to amend and reenact sections nine and thirteen, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to public service districts; requiring certain information in applications for service; requiring security deposits from new applicants; requiring certain notices of delinquency and termination of service; specifying certain conditions and procedures for termination of service, and adjusting the interest rate and interest cost of the proceeds on public service district revenue bonds.

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

That sections nine and thirteen, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 13A. PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.**

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

1 The board may make, enact and enforce all needful  
2 rules and regulations in connection with the acquisition,  
3 construction, improvement, extension, management,

4 maintenance, operation, care, protection and the use of  
5 any public service properties owned or controlled by the  
6 district, and the board shall establish rates and charges  
7 for the services and facilities it furnishes, which shall  
8 be sufficient at all times, notwithstanding the provisions  
9 of any other law or laws, to pay the cost of maintenance,  
10 operation and depreciation of such public service  
11 properties and principal of and interest on all bonds  
12 issued, other obligations incurred under the provisions  
13 of this article and all reserve or other payments  
14 provided for in the proceedings which authorized the  
15 issuance of any bonds hereunder. The schedule of such  
16 rates and charges may be based upon either (a) the  
17 consumption of water or gas on premises connected with  
18 such facilities, taking into consideration domestic,  
19 commercial, industrial and public use of water and gas;  
20 or (b) the number and kind of fixtures connected with  
21 such facilities located on the various premises; or (c) the  
22 number of persons served by such facilities; or (d) any  
23 combination thereof; or (e) may be determined on any  
24 other basis or classification which the board may  
25 determine to be fair and reasonable, taking into  
26 consideration the location of the premises served and the  
27 nature and extent of the services and facilities fur-  
28 nished. Where water, sewer and gas services are all  
29 furnished to any premises, the schedule of charges may  
30 be billed as a single amount for the aggregate thereof.  
31 The board shall require all users of services and  
32 facilities furnished by the district to designate on every  
33 application for service whether the applicant is a tenant  
34 or an owner of the premises to be served. If the  
35 applicant is a tenant, he shall state the name and  
36 address of the owner or owners of the premises to be  
37 served by the district. All new applicants for service  
38 shall deposit a minimum of fifty dollars with the district  
39 to secure the payment of service rates and charges in  
40 the event they become delinquent as provided in this  
41 section. In any case where a deposit is forfeited to pay  
42 service rates and charges which were delinquent at the  
43 time of disconnection or termination of service, no  
44 reconnection or reinstatement of service may be made  
45 by the district until another minimum deposit of fifty

46 dollars has been remitted to the district. Whenever any  
47 rates, rentals or charges for services or facilities  
48 furnished remain unpaid for a period of thirty days  
49 after the same become due and payable, the property  
50 and the owner thereof, as well as the user of the services  
51 and facilities provided shall be delinquent and the  
52 owner, user and property shall be held liable at law  
53 until such time as all such rates and charges are fully  
54 paid: *Provided*, That the property owner shall be given  
55 notice of any said delinquency by certified mail, return  
56 receipt requested. The board may, under reasonable  
57 rules and regulations promulgated by the public service  
58 commission, shut off and discontinue water or gas  
59 services to all delinquent users of either water or gas  
60 facilities, or both: *Provided, however*, That upon written  
61 request of the owner or owners of the premises, the  
62 board shall shut off and discontinue water and gas  
63 services where any rates, rentals, or charges for services  
64 or facilities remain unpaid by the user of the premises  
65 for a period of sixty days after the same became due and  
66 payable.

67 In the event that any publicly or privately owned  
68 utility, city, incorporated town, other municipal corpo-  
69 ration or other public service district included within  
70 the district owns and operates separately either water  
71 facilities or sewer facilities, and the district owns and  
72 operates the other kind of facilities, either water or  
73 sewer, as the case may be, then the district and such  
74 publicly or privately owned utility, city, incorporated  
75 town or other municipal corporation or other public  
76 service district shall covenant and contract with each  
77 other to shut off and discontinue the supplying of water  
78 service for the nonpayment of sewer service fees and  
79 charges: *Provided*, That any contracts entered into by  
80 a public service district pursuant to this section shall be  
81 submitted to the public service commission for approval.  
82 Any public service district providing water and sewer  
83 service to its customers shall have the right to terminate  
84 water service for delinquency in payment of either  
85 water or sewer bills. Where one public service district  
86 is providing sewer service and another public service  
87 district or a municipality included within the boundar-

88 ies of the sewer district is providing water service, and  
89 the district providing sewer service experiences a  
90 delinquency in payment, the district or the municipality  
91 included within the boundaries of the sewer district that  
92 is providing water service, upon the request of the  
93 district providing sewer service to the delinquent  
94 account, shall terminate its water service to the  
95 customer having the delinquent sewer account:  
96 *Provided, however,* That any termination of water  
97 service must comply with all rules, regulations and  
98 orders of the public service commission.

99 Any district furnishing sewer facilities within the  
100 district may require, or may by petition to the circuit  
101 court of the county in which the property is located,  
102 compel or may require the department of health to  
103 compel all owners, tenants or occupants of any houses,  
104 dwellings and buildings located near any such sewer  
105 facilities, where sewage will flow by gravity or be  
106 transported by such other methods approved by the  
107 department of health including, but not limited to,  
108 vacuum and pressure systems, approved under the  
109 provisions of section nine, article one, chapter sixteen of  
110 this code, from such houses, dwellings or buildings into  
111 such sewer facilities, to connect with and use such sewer  
112 facilities, and to cease the use of all other means for the  
113 collection, treatment and disposal of sewage and waste  
114 matters from such houses, dwellings and buildings  
115 where there is such gravity flow or transportation by  
116 such other methods approved by the department of  
117 health including, but not limited to, vacuum and  
118 pressure systems, approved under the provisions of  
119 section nine, article one, chapter sixteen of this code, and  
120 such houses, dwellings and buildings can be adequately  
121 served by the sewer facilities of the district, and it is  
122 hereby found, determined and declared that the man-  
123 datory use of such sewer facilities provided for in this  
124 paragraph is necessary and essential for the health and  
125 welfare of the inhabitants and residents of such districts  
126 and of the state: *Provided,* That if the public service  
127 district determines that the property owner must  
128 connect with the sewer facilities even when sewage from  
129 such dwellings may not flow to the main line by gravity

130 and the property owner must incur costs for any  
131 changes in the existing dwellings' exterior plumbing in  
132 order to connect to the main sewer line, the public  
133 service district board shall authorize the district to pay  
134 all reasonable costs for such changes in the exterior  
135 plumbing, including, but not limited to, installation,  
136 operation, maintenance and purchase of a pump, or any  
137 other method approved by the department of health;  
138 maintenance and operation costs for such extra instal-  
139 lation should be reflected in the users charge for  
140 approval of the public service commission. The circuit  
141 court shall adjudicate the merits of such petition by  
142 summary hearing to be held not later than thirty days  
143 after service of petition to the appropriate owners,  
144 tenants or occupants.

145 Whenever any district has made available sewer  
146 facilities to any owner, tenant or occupant of any house,  
147 dwelling or building located near such sewer facility,  
148 and the engineer for the district has certified that such  
149 sewer facilities are available to and are adequate to  
150 serve such owner, tenant or occupant, and sewage will  
151 flow by gravity or be transported by such other methods  
152 approved by the department of health from such house,  
153 dwelling or building into such sewer facilities, the  
154 district may charge, and such owner, tenant or occupant  
155 shall pay the rates and charges for services established  
156 under this article only after thirty-day notice of the  
157 availability of the facilities has been received by the  
158 owner.

159 All delinquent fees, rates and charges of the district  
160 for either water facilities, sewer facilities or gas  
161 facilities are liens on the premises served of equal  
162 dignity, rank and priority with the lien on such premises  
163 of state, county, school and municipal taxes. In addition  
164 to the other remedies provided in this section, public  
165 service districts are hereby granted a deferral of filing  
166 fees or other fees and costs incidental to the bringing  
167 and maintenance of an action in magistrates court for  
168 the collection of delinquent water, sewer or gas bills. If  
169 the district collects the delinquent account, plus  
170 reasonable costs, from its customer or other responsible

171 party, the district shall pay to the magistrate the normal  
172 filing fee and reasonable costs which were previously  
173 deferred. In addition, each public service district may  
174 exchange with other public service districts a list of  
175 delinquent accounts.

176 Anything in this section to the contrary notwithstanding,  
177 any establishment, as defined in section two, article  
178 five-a, chapter twenty, now or hereafter operating its  
179 own sewage disposal system pursuant to a permit issued  
180 by the department of natural resources, as prescribed  
181 by section seven, article five-a, chapter twenty of this  
182 code, is exempt from the provisions of this section.

#### **§16-13A-13. Revenue bonds.**

1 For constructing or acquiring any public service  
2 properties for the authorized purposes of the district, or  
3 necessary or incidental thereto, and for constructing  
4 improvements and extensions thereto, and also for  
5 reimbursing or paying the costs and expenses of  
6 creating the district, the board of any such district is  
7 hereby authorized to borrow money from time to time  
8 and in evidence thereof issue the bonds of such district,  
9 payable solely from the revenues derived from the  
10 operation of the public service properties under control  
11 of the district. Such bonds may be issued in one or more  
12 series, may bear such date or dates, may mature at such  
13 time or times not exceeding forty years from their  
14 respective dates, may bear interest at such rate or rates  
15 not exceeding eighteen percent per annum payable at  
16 such times, may be in such form, may carry such  
17 registration privileges, may be executed in such  
18 manner, may be payable at such place or places, may  
19 be subject to such terms of redemption with or without  
20 premium, may be declared or become due before  
21 maturity date thereof, may be authenticated in any  
22 manner, and upon compliance with such conditions, and  
23 may contain such terms and covenants as may be  
24 provided by resolution or resolutions of the board.  
25 Notwithstanding the form or tenor thereof, and in the  
26 absence of any express recital on the face thereof, that  
27 the bond is nonnegotiable, all such bonds shall be, and  
28 shall be treated as, negotiable instruments for all

29 purposes. Bonds bearing the signatures of officers in  
30 office on the date of the signing thereof shall be valid  
31 and binding for all purposes notwithstanding that  
32 before the delivery thereof any or all of the persons  
33 whose signatures appear thereon shall have ceased to be  
34 such officers. Notwithstanding the requirements or  
35 provisions of any other law, any such bonds may be  
36 negotiated or sold in such manner and at such time or  
37 times as is found by the board to be most advantageous,  
38 and all such bonds may be sold at such price that the  
39 interest cost of the proceeds therefrom does not exceed  
40 nineteen percent per annum, based on the average  
41 maturity of such bonds and computed according to  
42 standard tables of bond values. Any resolution or  
43 resolutions providing for the issuance of such bonds may  
44 contain such covenants and restrictions upon the  
45 issuance of additional bonds thereafter as may be  
46 deemed necessary or advisable for the assurance of the  
47 payment of the bonds thereby authorized.

*[Faint, illegible signature or stamp]*



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Frederick L. Parker*  
Chairman Senate Committee

*F. L. Satter*  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Jack C. Wells*  
Clerk of the Senate

*Donald J. Pegg*  
Clerk of the House of Delegates

*Sam R. Tucker*  
President of the Senate

*[Signature]*  
Speaker of the House of Delegates

The within is approved this the *16th*  
day of *April*, 1989.

*Yaston Caperton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/20/89

Time 10:17