# WEST VIRGINIA CODE: §16-13A-3

**§16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.**

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each district may acquire, own, and hold property, both real and personal, in its corporate name, and may sue, may be sued, may adopt an official seal, and may enter into contracts necessary or incidental to its purposes, including contracts with any city, incorporated town, or other municipal corporation located within or without its boundaries for furnishing wholesale supply of water for the distribution system of the city, town, or other municipal corporation, or for furnishing stormwater services for the city, town, or other municipal corporation, and contract for the operation, maintenance, servicing, repair, and extension of any properties owned by it or for the operation and improvement or extension by the district of all or any part of the existing municipally owned public service properties of any city, incorporated town, or other municipal corporation included within the district: *Provided,* That no contract may extend beyond a maximum of 40 years, but provisions may be included therein for a renewal or successive renewals thereof and shall conform to and comply with the rights of the holders of any outstanding bonds issued by the municipalities for the public service properties.

The powers of each public service district shall be vested in and exercised by a public service board consisting of not less than three members who shall be persons residing within the district, who possess certain educational, business, or work experience which will be conducive to operating a public service district, with the exception, however, that in the event a public service board has had a vacancy for more than one year one member of the public service board may be a county commissioner of the county commission with authority to appoint the members of the board regardless of whether the commissioner resides within the district. In the event the public service district is providing any utility service and billing rates and charges to its customers, at least one board member shall be a rate-paying residential customer of the public service district: *Provided,* That if an existing public service board does not have a member who is a rate-paying residential customer of the public service district on July 1, 2013, the next following appointment to the board shall be a rate-paying residential customer of that public service district. For purposes of this section, "rate-paying residential customer" means a person who:

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

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

(3) Has an active account in good standing and is the occupier of the residential property

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which is on the public service district utility service account.

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

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

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

If the number of members of the board appointed by the governing bodies of cities, incorporated towns, or other municipal corporations included within the district is less than three, then the county commission which entered the order creating the district shall appoint such additional member or members of the board, who are persons residing within the district, as is necessary to make the number of members of the board equal three except in cases of merger or consolidation where the number of board members may equal five, and the member or members appointed by the governing bodies of the cities, incorporated towns, or other municipal corporations included within the district and the additional member or members appointed by the county commission as aforesaid, are the board of the district. A person may serve as a member of the board in one or more public service districts.



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

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

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

Any vacancy shall be filled for the unexpired term within 30 days; otherwise successor members of the board shall be appointed for terms of six years and the terms of office shall continue until successors have been appointed and qualified. All successor members shall be appointed in the same manner as the member succeeded was appointed. The district shall provide to the Public Service Commission, within 30 days of the appointment, the following information: The new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces, and if the new appointee has previously served on the board. The Public Service Commission shall notify each new board member of the legal obligation to attend training as prescribed in this section.

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

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

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