

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1953



ENROLLED

HOUSE BILL No. 233

(By Mr. Snyder)



PASSED March 12 1953

In Effect thirty days from Passage



ENROLLED

House Bill No. 233

(By MR. SNYDER)

[Passed March 12, 1953; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article one; section four, article two and section six, article three, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, so as to authorize the public service commission to appoint its employees to hold hearings, take evidence, administer oaths, subpoena witnesses and to have such other powers and perform such other duties as the commission may require; to authorize the public service commission to suspend any proposed change in rates or charges under certain conditions for a period of one hundred twenty days, and providing for the posting of appropriate bond to secure refunds should such schedule be put into effect upon expiration of such period of suspension and to increase the amount of certain special license fees and to provide for the use thereof.

Be it enacted by the Legislature of West Virginia:

That section three, article one; section four, article two, and section six, article three, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Article 1.

Section 3. *Secretary and Other Employees; Compensation; Duties.*—The commission shall appoint a secretary and such other employees as may be necessary to carry out the provisions of this chapter, and shall fix their respective salaries or compensations. Such secretary and other employees shall hold office during the pleasure of the commission. It shall be the duty of the secretary to keep a full and true record of all proceedings, acts, orders and judgments of the commission, to issue all necessary process, returns and notices, to keep all books, maps, documents and papers ordered filed by the commission, and all orders made by the commission or approved and confirmed by it and ordered to be filed; and he shall be responsible to the commission for the safe custody and preservation of all such documents in his

16 office. He may administer oaths in all parts of the state,
17 so far as the exercise of such power is properly incidental
18 to the performance of his duty or that of the commission.
19 The commission may designate such of its employees
20 as it deems necessary to hold hearings, held or required
21 by this chapter, and to take evidence at such hearings,
22 which employees are hereby empowered to subpoena
23 witnesses, administer oaths, take testimony, require the
24 production of documentary evidence and exercise such
25 other powers and perform such other duties as may be
26 delegated to them and required by the commission, in
27 any proceeding or examination instituted or conducted
28 by the commission under this chapter, at any designated
29 place of hearing within the state.

Article 2.

Section 4. *Procedure for Changing Rates.*—No public
2 utility subject to this chapter shall change, suspend or
3 annul any rate, joint rate, charge, rental or classification
4 except after thirty days' notice to the commission and
5 the public, which notice shall plainly state the changes
6 proposed to be made in the schedule then in force and

7 the time when the changed rates or charges shall go
8 into effect. But the commission may enter an order
9 suspending the proposed rate as hereinafter provided.
10 The proposed changes shall be shown by printing new
11 schedules, or shall be plainly indicated upon the schedules
12 in force at the time, and kept open to public inspection:
13 *Provided, however,* That the commission may, in its
14 discretion, and for good cause shown, allow changes upon
15 less time than the notice herein specified, or may modify
16 the requirements of this section in respect to publishing,
17 posting and filing of tariffs, either by particular instruc-
18 tions or by general order.

19 Whenever there shall be filed with the commission any
20 schedule stating a change in the rates or charges, or
21 joint rates or charges, or stating a new individual or
22 joint rate or charge or joint classification or any new
23 individual or joint regulation or practice affecting any
24 rate or charge, the commission shall have authority,
25 either upon complaint or upon its own initiative without
26 complaint, to enter upon a hearing concerning the pro-
27 priety of such rate, charge, classification, regulation or

28 practice; and, if the commission so orders, it may proceed
29 without answer or other form of pleading by the inter-
30 ested parties, but upon reasonable notice, and pending
31 such hearing and the decision thereon the commission
32 upon filing with such schedule and delivering to the
33 public utility affected thereby a statement in writing of
34 its reasons for such suspension, may suspend the opera-
35 tion of such schedule and defer the use of such rate,
36 charge, classification, regulation, or practice, but not for
37 a longer period than one hundred and twenty days
38 beyond the time when such rate, charge, classification,
39 regulation or practice would otherwise go into effect;
40 and after full hearing, whether completed before or
41 after the rate, charge, classification, regulation or prac-
42 tice goes into effect, the commission may make such
43 order in reference to such rate, charge, classification,
44 regulation or practice as would be proper in a proceed-
45 ing initiated after the rate, charge, classification, regula-
46 tion or practice had become effective: *Provided, That*
47 if any such hearing and decision thereon cannot be con-
48 cluded within the period of suspension, as above stated,

49 such rate, charge, classification, regulation or practice
50 shall go into effect at the end of such period. In such
51 case the commission may require such public utility to
52 enter into a bond in an amount deemed by the commis-
53 sion to be reasonable and conditioned for the refund
54 to the persons or parties entitled thereto of the amount
55 of the excess, plus interest at the rate of six per cent per
56 annum, if such rates so put into effect are subsequently
57 determined to be higher than those finally fixed for such
58 utility. No such accrued interest paid shall be deemed
59 part of the cost of doing business in a subsequent applica-
60 tion for changing rates or any decision thereon. At any
61 hearing involving a rate sought to be increased or involv-
62 ing the change of any fare, charge, classification, regula-
63 tion or practice, the burden of proof to show that the in-
64 creased rate or proposed increased rate, or the proposed
65 change of fare, charge, classification, regulation or prac-
66 tice is just and reasonable shall be upon the public utility
67 making application for such change. When in any case
68 pending before the commission all evidence shall have
69 been taken, and the hearing completed, the commission

70 shall, within three months, render a decision in such case.
71 Where more than twenty members of the public are
72 affected by a proposed change in rates, it shall be a
73 sufficient notice to the public within the meaning of
74 this section if such notice is published once a week for
75 four consecutive weeks in some newspaper of general
76 circulation in the community where the majority of the
77 resident members of the public affected by such change
78 reside, or, in case of nonresidents, have their principal
79 place of business within this state.

Article 3.

Section 6. *Special License Fee.*—(a) All public utilities
2 subject to the provisions of this chapter shall pay a
3 special license fee in addition to those now required by
4 law. The amount of such fees shall be fixed by the
5 auditor and levied by him upon each of such public
6 utilities according to the value of its property as ascer-
7 tained by the last assessment, and shall be apportioned
8 among such public utilities upon the basis of such valua-
9 tion, so as to produce a revenue of one hundred thousand
10 dollars per annum, which fees shall be paid on or before

11 the twentieth day of January in each year. Such sum of
12 one hundred thousand dollars, together with that pro-
13 vided in sub-section (b) hereof shall be paid into the
14 state treasury and kept as a special fund, designated
15 "Public Service Commission Fund", to be appropriated
16 as provided by law for the purpose of paying the salaries
17 of the commission, as fixed by this chapter, its expenses
18 and salaries, compensations, costs and expenses of its
19 employees.

20 (b) All public utilities subject to the provisions of
21 this chapter shall pay a special license fee in addition
22 to any and all fees now required by law. The amount
23 of such fees shall be fixed by the auditor and levied by
24 him upon each of such public utilities, in the proportion
25 which the total gross revenue derived from intra-state
26 business done by each of such public utilities in the
27 calendar year next preceding bears to the total gross
28 revenue derived from intra state business done in such
29 year by all public utilities subject to regulation by the
30 public service commission, so as to produce a revenue of
31 two hundred thousand dollars per annum, in addition

32 to such fees as may be fixed by the auditor under the
33 provisions of subsection (a) hereof and which fees shall
34 be paid on or before the first day of July in each year.
35 Such sum of two hundred thousand dollars shall be
36 paid into the state treasury and be kept, appropriated
37 and used as provided in subsection (a) hereof.

38 (c) Any balance remaining in said fund at the end
39 of any fiscal year shall not revert to the treasury but
40 shall be credited by the auditor upon the amounts to be
41 raised for the next fiscal year, under sub-section (a)
42 and (b), on the same basis and in the same proportion
43 as said fund was raised under said subsections.

MAR 5 1923

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

Wm Kinley
Chairman Senate Committee

W. H. Humber
Chairman House Committee

Originated in the House of Delegates

Takes effect *ninety days from* passage.

Howard Meyer
Clerk of the Senate

Joseph
Clerk of the House of Delegates

Ralph Bran
President of the Senate

W. E. Hamner
Speaker House of Delegates

The within *approved* this the *20th*
day of *March*, 1953.

William C. Macland
Governor



Filed in the Office of the Secretary of State

of West Virginia

MAR 20 1953

D. MITT O'BRIEN

RECEIVED