

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1971

ENROLLED

COMMITTEE SUBSTITUTE FOR

HOUSE BILL No. 738

ORIGINATING IN THE COMMITTEE ON THE JUDICIARY

(By Mr. \_\_\_\_\_)

PASSED MARCH 10 1971

In Effect NINETY DAYS FROM Passage



738

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AN ACT to amend and reenact sections three and three-a, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the grounds and methods for the removal of any member of a public service district board.

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

That sections three and three-a, 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 AND SEWERAGE SERVICES.**

**§16-13A-3. District to be a public corporation and political subdivision; powers thereof; creation of public service boards; appointment and qualifications of members; terms; removal; vacancies; organization.**

1 From and after the date of the adoption of the order  
2 creating any such public service district, it shall there-  
3 after be a public corporation and political subdivision of  
4 the state with power of perpetual succession, but without  
5 any power to levy or collect ad valorem taxes. Each such  
6 district shall have power to acquire, own and hold prop-  
7 erty, both real and personal, in its corporate name, and  
8 shall have power to sue, may be sued, may adopt an  
9 official seal and may enter into contracts necessary or  
10 incidental to its purposes, including contracts with any  
11 city, incorporated town or other municipal corporation  
12 located within or without its boundaries for furnishing  
13 wholesale supply of water for the distribution system  
14 of such city, town or other municipal corporation, and  
15 contract for the operation, maintenance, servicing, repair  
16 and extension of any properties owned by it, or for the

17 operation and improvement or extension by such district  
18 of all or any part of the existing municipally owned public  
19 service properties of any city, incorporated town or other  
20 municipal corporation included within such district:  
21 *Provided*, That no such contract shall extend over a period  
22 of forty years, but provisions may be included therein  
23 for a renewal or successive renewals thereof, and shall  
24 conform to and comply with the rights of the holders  
25 of any outstanding bonds issued by such municipalities  
26 for such public service properties.

27 The powers of each such public service district shall  
28 be vested in and exercised by a public service board  
29 consisting of not less than three members, who shall be  
30 appointed in the following manner:

31 Each city, incorporated town, or other municipal cor-  
32 poration having a population in excess of three thousand,  
33 but not exceeding eighteen thousand, shall be entitled  
34 to appoint one member of such board, and each such city,  
35 incorporated town, or other municipal corporation having  
36 a population in excess of eighteen thousand shall be  
37 entitled to appoint one additional member of such board

38 for each additional eighteen thousand population. The  
39 members of said board representing such cities, incor-  
40 porated towns or other municipal corporations shall be  
41 residents thereof and shall be appointed by a resolution  
42 of the governing bodies thereof, and upon the filing  
43 of a certified copy or copies of such resolution or reso-  
44 lutions in the office of the clerk of the county court which  
45 entered the order creating such district, such persons so  
46 appointed shall thereby become members of said board  
47 without any further act or proceedings. If the number  
48 of members of said board so appointed by the governing  
49 bodies of cities, incorporated towns or other municipal  
50 corporations included in the district shall equal or ex-  
51 ceed three, then no further members shall be appointed  
52 to such board and such members shall be and constitute  
53 the board of said district.

54 If no city, incorporated town or other municipal cor-  
55 poration having a population in excess of three thousand  
56 is included within the district, then the county court  
57 which entered the order creating the district shall appoint  
58 three members of said board, who shall be persons re-

59 siding within the district, which said three members  
60 shall become members of and constitute the board of  
61 said district without any further act or proceedings.

62 If the number of members of said board appointed  
63 by the governing bodies of cities, incorporated towns or  
64 other municipal corporations included within the dis-  
65 trict shall be less than three, then the county court which  
66 entered the order creating the district shall appoint such  
67 additional member or members of said board, who shall  
68 be persons residing within the district, as shall be neces-  
69 sary to make the number of members of said board equal  
70 three, and said additional member or members shall  
71 thereupon become members of such board; and the mem-  
72 ber or members appointed by the governing bodies of  
73 the cities, incorporated towns or other municipal cor-  
74 porations included within the district and the additional  
75 member or members appointed by such county court  
76 as aforesaid, shall be and constitute the board of  
77 said district. It shall be proper for one person to serve  
78 as a member of the board in one or more public dis-  
79 tricts.

80 The population of any city, incorporated town or other  
81 municipal corporation, for the purpose of determining  
82 the number of members of such board, if any, to be  
83 appointed by the governing body or bodies thereof,  
84 shall be conclusively deemed to be the population stated  
85 for such city, incorporated town or other mu-  
86 nicipal corporation in the last official federal  
87 census.

88 The respective terms of office of the members of the  
89 first board shall be fixed by the county court and shall  
90 be as equally divided as may be, that is approximately  
91 one third of the members for a term of two years, a like  
92 number for a term of four, and the term of the remain-  
93 ing member or members for six years, from the first  
94 day of the month during which such appointments are  
95 made. The first members of the board appointed as  
96 aforesaid shall meet at the office of the clerk of the  
97 county court which entered the order creating the dis-  
98 trict as soon as practicable after such appointments and  
99 shall qualify by taking an oath of office: *Provided, how-*  
100 *ever,* That any member or members of the board may

101 be removed from their respective office as provided in  
102 section three-a of this article.

103 Any vacancy shall be filled for the unexpired term,  
104 and otherwise successor members of the board shall be  
105 appointed for terms of six years, and the terms of office  
106 shall continue until successors have been appointed and  
107 qualified. All successor members shall be appointed in  
108 the same manner as the member succeeded was ap-  
109 pointed.

110 The board shall organize promptly following the first  
111 appointments, and annually thereafter at its first meet-  
112 ing after January one of each year, by selecting one  
113 of its members to serve as chairman and by appointing  
114 a secretary and a treasurer who need not be members  
115 of such board. The secretary shall keep a record of all  
116 proceedings of the board which shall be available for  
117 inspection as other public records. The treasurer shall  
118 be lawful custodian of all funds of the public service  
119 district and shall pay same out on orders authorized  
120 or approved by the board. The secretary and treasurer  
121 shall perform such other duties appertaining to the  
122 affairs of the district and shall receive such salaries as  
123 shall be prescribed by the board. The treasurer shall

124 furnish bond in an amount to be fixed by the board for  
125 the use and benefit of the district. The members of the  
126 board, and the chairman, secretary and treasurer thereof,  
127 shall make available to the county court, at all times,  
128 all of its books and records pertaining to the district's  
129 operation, finances and affairs, for inspection and audit.

**§16-13A-3a. Provisions for removal of members of public  
service board.**

1 The county court or any other appointive body cre-  
2 ating or establishing a public service district under the  
3 provisions of this article shall have the authority to  
4 remove any member of the governing board thereof for  
5 consistent violations of any provisions of this article,  
6 for reasonable cause which shall include but not be  
7 limited to a continued failure to attend meetings of the  
8 board, failure to deligently pursue the objectives for  
9 which the district was created, or failure to perform any  
10 other duty prescribed by law, or for any misconduct in  
11 office, or upon written petition signed by a majority of  
12 the registered voters residing within the public service  
13 district: *Provided*, That such appointee shall only be  
14 removed after a full hearing of any complaint presented  
15 against him and after due notice of such hearing.

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

Russell A. Brall  
Chairman Senate Committee

Phyllis J. Rutledge  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Myers  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

Edw. Court  
President of the Senate

Joe F. Boarso  
Speaker House of Delegates

The within approved this the 31<sup>st</sup>  
day of March, 1971.

Mich. A. Shaver, Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/13/71

Time 3:45 p.m.