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
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 creating any such public service district, it shall thereafter be a public corporation and political subdivision of the state with power of perpetual succession, but without any power to levy or collect ad valorem taxes. Each such district shall have power to acquire, own and hold property, both real and personal, in its corporate name, and shall have power to 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 such 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 such 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 such district:
Provided, That no such contract shall extend over a period
of forty 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 such municipalities
for such public service properties.
The powers of each such public service district shall
be vested in and exercised by a public service board
consisting of not less than three members, who shall be
appointed in the following manner:
Each city, incorporated town, or other municipal cor-
poration having a population in excess of three thousand,
but not exceeding eighteen thousand, shall be entitled
to appoint one member of such board, and each such city,
incorporated town, or other municipal corporation having
a population in excess of eighteen thousand shall be
entitled to appoint one additional member of such board
for each additional eighteen thousand population. The members of said 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 such resolution or resolutions in the office of the clerk of the county court which entered the order creating such district, such persons so appointed shall thereby become members of said board without any further act or proceedings. If the number of members of said board so appointed by the governing bodies of cities, incorporated towns or other municipal corporations included in the district shall equal or exceed three, then no further members shall be appointed to such board and such members shall be and constitute the board of said district.

If no city, incorporated town or other municipal corporation having a population in excess of three thousand is included within the district, then the county court which entered the order creating the district shall appoint three members of said board, who shall be persons re-
siding within the district, which said three members shall become members of and constitute the board of said district without any further act or proceedings.

If the number of members of said board appointed by the governing bodies of cities, incorporated towns or other municipal corporations included within the district shall be less than three, then the county court which entered the order creating the district shall appoint such additional member or members of said board, who shall be persons residing within the district, as shall be necessary to make the number of members of said board equal three, and said additional member or members shall thereupon become members of such board; 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 such county court as aforesaid, shall be and constitute the board of said district. It shall be proper for one person to serve as a member of the board in one or more public districts.
The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of such board, if any, to be appointed by the governing body or bodies thereof, shall be conclusively deemed to be the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

The respective terms of office of the members of the first board shall be fixed by the county court 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, and the term of the remaining member or members for six years, from the first day of the month during which such appointments are made. The first members of the board appointed as aforesaid shall meet at the office of the clerk of the county court which entered the order creating the district as soon as practicable after such appointments and shall qualify by taking an oath of office: Provided, however, That any member or members of the board may
be removed from their respective office as provided in section three-a of this article.

Any vacancy shall be filled for the unexpired term, and 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 board shall organize promptly following the first appointments, and annually thereafter at its first meeting after January one of each year, by selecting one of its members to serve as chairman and by appointing a secretary and a treasurer who need not be members of such board. The secretary shall keep a record of all proceedings of the board which shall be available for inspection as other public records. The treasurer shall be 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 such other duties appertaining to the affairs of the district and shall receive such 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. The members of the
board, and the chairman, secretary and treasurer thereof,
shall make available to the county court, at all times,
all of its books and records pertaining to the district’s
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-
ating or establishing a public service district under the
provisions of this article shall have the authority to
remove any member of the governing board thereof for
consistent violations of any provisions of this article,
for reasonable cause which shall include but not be
limited to a continued failure to attend meetings of the
board, failure to diligently pursue the objectives for
which the district was created, or failure to perform any
other duty prescribed by law, or for any misconduct in
office, or upon written petition signed by a majority of
the registered voters residing within the public service
district: Provided, That such appointee shall only be
removed after a full hearing of any complaint presented
against him and after due notice of such hearing.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ______ approved this the ______ day of ______, 1971.

Governor
PRESENTED TO THE
GOVERNOR

Date 3/13/71
Time 3:45 p.m.