WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

ENROLLED

HOUSE BILL No. 1029

(By Mr. Speaker, Mr. Metcalf and Mr. Coleman)

PASSED February 26, 1975

In Effect ninety days from Passage
ENROLLED

H. B. 1029

(By Mr. Speaker, Mr. McManus, and Mr. Colombo)

[Passed February 26, 1975; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to permitting a territory to be included within the boundaries of one or more public service districts.

Be it enacted by the Legislature of West Virginia:

That section two, 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-2. Creation of districts by county commission; enlarging or reducing district; consolidation; agreements, etc., infringing upon powers of county commission.

1 The county commission of any county may on its own motion by order duly adopted propose the creation of such public service district within such county, setting forth in such order a description sufficient to identify the territory to be embraced therein and the name of such proposed district, or any one hundred legal voters resident within and owning real property within the limits of such proposed public service district within one or more counties may petition for the creation thereof, which petition shall contain a description sufficient to identify the territory to be em-
braced therein and the name of such proposed district. Any
territory may be included regardless of whether or not
such territory includes one or more cities, incorporated towns
or other municipal corporations which own and operate
any public service properties and regardless of whether
or not it includes one or more cities, incorporated towns or
other municipal corporations being served by privately owned
public service properties: Provided, That the boundaries of
any public service district organized under this article shall
conform to or follow magisterial district lines except where
less than a whole of any magisterial district is to be included,
in which latter case that part of any such boundary shall con-
form to other natural boundary lines, or the lines of a fixed
survey: Provided, however, That the same territory shall not
be included within the boundaries of more than one public
service district except where such territory or part thereof
is included within the boundaries of a separate public service
district organized to supply water or sewerage services not
being furnished within such territory or part thereof: Provided
further, That no city, incorporated town or other municipal
corporation shall be included within the boundaries of such
proposed district except upon the adoption of a resolution
of the governing body of such city, incorporated town or other
municipal corporation consenting thereto.

Such petition shall be filed in the office of the clerk of
the county commission of the county in which the territory
to constitute the proposed district is situated, and if such
territory is situated in more than one county then such
petition shall be filed in the office of the clerk of the county
commission of the county in which the major portion of such
territory extends, and a copy thereof (omitting signatures) shall
be filed with each of the clerks of the county commission
of the other county or counties into which the territory extends.
It shall be the duty of the clerk of the county commission
receiving such petition to present same to the county com-
mision of such county at the first regular meeting after such
filing or at a special meeting called for the consideration
thereof.

When the county clerk of any county enters an order on
its own motion proposing the creation of a public service
district, as aforesaid, or when a petition for such creation
is presented, as aforesaid, the county commission shall at
the same session fix a date of hearing in such county on the
creation of the proposed public service district, which date
so fixed shall be not more than forty days nor less than
twenty days from the date of such action. If the territory
propoed to be included is situated in more than one county,
the county commission, when fixing a date of hearing, shall
provide for notifying the county court and clerk thereof of
each of the other counties into which the territory extends
of the date so fixed. The clerk of the county commission of
each county in which any territory in the proposed public
service district is located shall cause notice of such hearing
and the time and place thereof, and setting forth a description
of all of the territory proposed to be included therein to be
given by publication as a Class I legal advertisement in com-
pliance with the provisions of article three, chapter fifty-nine
of this code, and the publication area for such publication shall
be each county in which any territory in the proposed public
service district is located. The publication shall be at least
ten days prior to such hearing. In all cases where proceedings
for the creation of such public service districts are initiated by
petition as aforesaid the person filing the petition shall
advance or satisfactorily indemnify the payment of the cost
and expenses of publishing the hearing notice, and otherwise
the costs and expenses of such notice shall be paid in the
first instance by the county commission out of contingent
funds or any other funds available or made available for
that purpose. In addition to the notice required herein to
be published, there shall also be posted in at least five
conspicuous places in the proposed public service district,
a notice containing the same information as is contained in
the published notice. The posted notices shall be posted
not less than ten days before said hearing.

All persons residing in or owning or having any interest
in property in such proposed public service district shall
have an opportunity to be heard for and against its creation.
At such hearing the county commission before which the
hearing is conducted shall consider and determine the feasibility
of the creation of the proposed district. When it shall have
been thus determined that the construction or acquisition by
purchase or otherwise, and maintenance, operation, improve-
ment, and extension of public service properties by such public
service district will be conducive to the preservation of
public health, comfort and convenience of such area, then
such county commission shall by order create such public
service district, and such order shall be conclusive and final in
that regard. If the court shall, after due consideration, deter-
mime that the proposed district will not be conducive to the pre-
servation of public health, comfort or convenience of such area,
or that the creation of the proposed district as set forth and
described in the petition or order is not feasible, it may refuse
to enter an order creating the same, or it may enter an order
amending the description of the proposed district, and create
said district as amended. The clerk of the county commission
of each county into which any part of such district extends
shall retain in his office an authentic copy of the order creating
the same: Provided, That if at such hearing written protest is
filed by thirty percent or more of the qualified voters register-
ed and residing within said district, then the county commission
shall not take any further action in creating such district un-
less the creation of such district shall be approved by a major-
ity vote of the qualified registered voters voting at a referendum
to be called by the county commission for such purpose. Such
referendum shall be called and held in the manner provided
in the general election laws of the state of West Virginia ap-
licable thereto and the funds therefor shall be supplied from
any county funds available for such purpose, or from funds
supplied from the persons who petitioned for the creation of
such district. If a majority of the qualified registered electors
participating in said election shall vote against the creation of
said district, then such district shall not be created. If, how-
ever, a majority of the qualified registered voters participating
in such referendum vote in favor of the creation of such dis-
trict, then the county commission shall duly enter its order
creating such district.

After the creation of such district the county commission
may, if in its discretion it deems it necessary, feasible and
proper, enlarge the said district to include additional areas, re-
duce the area of said district, where facilities, equipment, ser-
vice or materials have not been extended, or establish or con-
solidate two or more such districts: Provided, That where the
county commission determines on its own motion by order
entered of record, or there is a petition, to enlarge the district
or reduce the area of the district, all of the applicable provi-
sions of this article providing for hearing, notice of hearing and
protest shall apply with like effect as if a district were being
created. The districts may not enter into any agreement, con-
tract or covenant that infringes upon, impairs, abridges or
usurps the duties, rights or powers of the county commission,
as set forth in this article, or conflicts with any provision of
this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
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 5th day of ________, 1975.

Governor
PRESENTED TO THE GOVERNOR

Date 2/28/75
Time 5:45 p.m.