WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

ENROLLED
Committee Substitute for
SENATE BILL NO. 95

(By Mr. [Signature])

PASSED ___________________ 1981
In Effect ninety days from Passage

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RECEIVED
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COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 95
(MR. SUSMAN and MR. HARMAN, original sponsors)
[Passed April 11, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three, three-a, four, five, six, seven, eight, nine, ten, eleven, twelve, eighteen-a, twenty-four and twenty-five, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to certain revisions to the public service district laws; requiring that the metes and bounds of any proposed public service district be included in any order or petition for the creation of such district; changing the number of residents within the limits of a proposed public service district required to petition for the creation of such district from one hundred voters to twenty-five percent of the registered voters who reside within the limits of such proposed public service district; removing the requirement that the boundaries of any public service district follow magisterial district lines; encouraging the expansion or merger of existing public service districts; providing for the dissolution of any inactive public service district by petition or by an order of the county commission in the same manner as required for its creation; providing that applicable provisions pertaining to referendum shall not apply if results of referendum could adversely affect existing financial indebtedness of district;
requiring that county commissions file with the secretary of state a list of all public service districts and their current board members; requiring certain qualifications for public service district board members; removing the requirement that a municipal corporation must have a population of at least three thousand in order to appoint a board member; requiring any board member vacancy to be filled for the unexpired term within thirty days; requiring the board to organize within thirty days following the first appointments; requiring a record of all board proceedings, including the minutes of all board meetings, to be filed with the county commission; requiring the board to meet at least monthly; providing that the number of signatures required on any petition for the removal of any member of the board shall be twenty-five percent of the registered voters who reside within the limits of the proposed public service district; requiring that ten days’ notice of a hearing be given to any board member subject to removal; salaries of board members; qualifications; maximum salary permitted of board member; providing board members be reimbursed for expenses; providing for proper public notice of any board meeting; clarifying that the general manager of the board be an employee of the board; providing that a general manager may serve more than one public service district or municipal water system, or both; requiring that the board have supervision and control of all public service properties donated to the district; providing that contracts entered into by the public service district for emergency construction work or purchase of equipment may be entered without notice and publication requirements; requiring the approval of the public service commission whenever any district acquires, constructs, establishes, improves or extends any public service properties of the same kind as, and located within, any municipal corporation within the limits of such district; allowing the board to make, enact and enforce all rules and regulations in connection with the administration of public service district properties owned or controlled by such district; removing the requirement that the board or any municipal corporation located within the district of such board shut off and discontinue sewer services to all delinquent users of such services; permitting the public service commission to promulgate rules and regulations regarding the discontinuance of water and gas services for delinquent
payment; authorizing any district furnishing sewer facilities to require connection with such facilities under certain circumstances; authorizing the public service district to pay under certain circumstances the costs incurred by the property owner for changes in plumbing; providing certain costs to be reflected in the users' charge for approval of public service commission; providing for payment of rates and charges for sewer services after thirty-day notice of service availability; requiring the inclusion of payments to capital replacement accounts and bond payment schedules in the tentative budget prepared by the general manager and submitted to the board; requiring a copy of the budget, as adopted by the board, to be forwarded to the county commission; requiring a copy of an audit to be forwarded to the county commission and the public service commission; requiring the treasurer of a public service district to be responsible for maintaining financial records, including the duty to transfer such records to his successor; requiring that any order for the disbursement of district funds be reflected in the minutes of the board; providing for sale, lease or rental of water systems by district; authorizing a public service district to accept loans, grants or temporary advances to pay costs of construction or acquisition of water, sewer or gas facilities and for other authorized purposes from the United States, any federal or public agency, or any private party, and to enter into necessary contracts and agreements therewith; authorizing payment of loans, temporary advances, and interest thereon from bond proceeds, revenues of said systems and grants from said agencies and parties or combinations thereof; provides consent and approval of public service commission before public service district borrows money or issues revenue bonds; requirements of form for residents to file in opposition to public service district borrowing money or issuing revenue bonds; qualifications for public service commission consenting or approving public service district request to borrow money or issue revenue bonds.

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

That sections two, three, three-a, four, five, six, seven, eight, nine, ten, eleven, twelve, eighteen-a, twenty-four and twenty-five, 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, SEWERAGE AND GAS SERVICES.

§16-13A-2. Creation of districts by county commission; enlarging, reducing or dissolving district; consolidation; agreements, etc., infringing upon powers of county commission; filing list of members and districts with the secretary of state.

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, including metes and bounds, sufficient to identify the territory to be embraced therein and the name of such proposed district, or twenty-five percent of the registered voters who reside 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, including metes and bounds, sufficient to identify the territory to be embraced 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 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, sewerage services or gas facilities not being furnished within such territory or part thereof: Provided, however, 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.

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. The clerk of the county commission
receiving such petition shall present it to the county
commission of such county at the first regular meeting after
such filing or at a special meeting called for the consideration
thereof.

When the county commission 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 proposed 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 commission 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 compliance
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 the 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. If the
county commission determines that the construction or
acquisition by purchase or otherwise and maintenance,
operation, improvement, 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, the county commission shall by order create such
public service district and such order is conclusive and final
in that regard. If the commission, after due consideration,
determines that the proposed district will not be conducive to
the preservation 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 district or it may
enter an order amending the description of the proposed
district and create the district as amended. If the county
commission determines that any other public service district
or districts can adequately serve the area of the proposed
public service district, whether by expansion, merger or other
means, it shall refuse to enter an order creating the proposed
district: Provided, That prior to refusing to enter such order,
evidence must be presented to the satisfaction of the county
commission that such expansion, merger or other procedure
necessary to provide service to the area of the proposed
district will be forthcoming: Provided, however, That no
expansion of a public service district may occur if the present
or proposed physical facilities of the public service district
are determined by the appropriate county commission to be
inadequate to provide such expanded service. 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 district: Provided, That if at
such hearing written protest is filed by thirty percent or more
of the qualified voters registered and residing within said
district, then the county commission shall not take any
further action in creating such district unless the creation of
such district is approved by a majority 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 applicable 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 voters participating in
the referendum vote against the creation of the district, then
such district shall not be created. If, however, a majority of
the qualified registered voters participating in such
referendum vote in favor of the creation of such district, 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 district to include additional areas, reduce
the area of the district, where facilities, equipment, service or
materials have not been extended, or dissolve the district if
inactive or establish or consolidate 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, reduce the area of
the district or dissolve the district if inactive all of the
applicable provisions of this article providing for hearing,
notice of hearing and protest shall apply with like effect as if a
district were being created: Provided, however, That no
expansion of a public service district may occur if the
physical facilities of the public service district are determined
by the appropriate county commission to be inadequate to
provide such expanded service. The commission shall at all
times attempt to bring about the expansion or merger of
existing public service districts in order to provide increased
services and to eliminate the need for creation of new public
service districts in those areas which are not currently
serviced by a public service district: Provided further, That
the applicable provisions pertaining to referendum shall not
apply if the results of a referendum could adversely affect the
existing financial indebtedness of the district. The districts
may not enter into any agreement, contract 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. A list of
all districts and their current board members shall be filed by
the county commission with the secretary of state.

§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.

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, but
without any power to levy or collect ad valorem taxes. Each
such 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 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 beyond a maximum 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 persons residing
within the district who have successfully completed a
training program to be established and administered by the
public service commission in conjunction with the
department of natural resources and the department of
health. Such members shall be appointed in the following
manner:
Each city, incorporated town or other municipal corporation 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 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 such resolution or resolutions in the office of the clerk of the county commission which entered the order creating such district, such persons so appointed shall thereby 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 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 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, which 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 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, and the 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 commission as aforesaid, shall be and constitute the board of the district. A person may 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 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, 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 commission which entered the order creating the district as soon as practicable after such 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 section three-a of this article.

Any vacancy shall be filled for the unexpired term within thirty 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 board shall organize within thirty days 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. 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 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 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.


The county commission or any other appointive body creating or establishing a public service district under the provisions of this article may remove any member of the governing board thereof for consistent violations of any provisions of this article, for reasonable cause which includes but is not 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 twenty-five percent of the registered voters who reside within the limits of such proposed public service district: Provided, That such appointee shall be removed only after a full hearing of any complaint presented against him and after a ten-day notice of such hearing.

§16-13A-4. Absence or resignation of chairman; salaries of members; procedural regulations; quorum; liability of members; changing corporate name of district.

The chairman shall preside at all meetings of the board and may vote as any other members of the board but if he should be absent from any meeting, the remaining members may select a temporary chairman and if the member selected as chairman resigns as such or ceases for any reason to be a member of the board, the board shall select one of its members as chairman to serve until the next annual organization meeting. Salaries of each of its members shall be fifty dollars per attendance at regular monthly meetings and thirty dollars per attendance at additional special meetings, total salary not to exceed seven hundred fifty dollars per annum. Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided for by the rules and regulations of the board. The board shall by resolution
determine its own rules of procedure, fix the time and place
of its meetings and the manner in which special meetings
may be called. Public notice of meetings shall be given in
accordance with section three, article nine-a, chapter six of
this code. Emergency meetings may be called as provided by
section three, article nine-a, chapter six of this code. A
majority of the members constituting the board also
constitute a quorum to do business. The members of the
board are not personally liable or responsible for any
obligations of the district or the board but are answerable
only for willful misconduct in the performance of their duties.
At any time prior to the issuance of bonds as hereinafter
provided the board may by resolution change the official or
corporate name of the public service district and such change
shall be effective from and after filing an authenticated copy
of such resolution with the clerk of the county commission of
each county in which the territory embraced within such
district or any part thereof is located. The official name of any
district created under the provisions of this article may
contain the name or names of any city, incorporated town or
other municipal corporation included therein or the name of
any county or counties in which it is located.

§16-13A-5. General manager of board.

The board may employ a general manager to serve a term of
not more than five years and until his successor is employed,
and his compensation shall be fixed by resolution of the
board. Such general manager shall devote all or the required
portion of his time to the affairs of the district and may
employ, discharge and fix the compensation of all employees
of the district, except as in this article otherwise provided,
and he shall perform and exercise such other powers and
duties as may be conferred upon him by the board.

Such general manager shall be chosen without regard to his
political affiliations and upon the sole basis of his
administrative and technical qualifications to manage public
service properties and affairs of the district and he may be
discharged only upon the affirmative vote of two thirds of the
board. Such general manager need not be a resident of the
district at the time he is chosen. Such general manager may
not be a member of the board but shall be an employee of the
board.

The board of any public service district which purchases
water service from a municipal water system or another
public service district may, as an alternative to hiring its own
general manager, elect to permit the general manager of the
municipal water system or public service district from which
such water service is purchased provide professional
management to the district, if the appropriate municipality or
public service board agrees to provide such assistance. The
general manager shall receive reasonable compensation for
such service.

§16-13A-6. Employees of board.

The board may in its discretion from time to time by
resolution passed by a majority vote provide for the
employment of an attorney, fiscal agent, one or more
engineers and such other employees as the board may
determine necessary and expedient. The board shall in and
by such resolution fix the term of employment and
compensation and prescribe the duties to be performed by
such employees.

§16-13A-7. Acquisition and operation of district properties.

The board of such districts shall have the supervision and
control of all public service properties acquired, donated to or
constructed by the district and shall maintain, operate,
extend and improve the same: Provided, That no extension of
a public service district may occur if the present or proposed
physical facilities of the public service district are determined
by the appropriate county commission to be inadequate to
provide such expanded service. All contracts involving the
expenditure by the district of more than two thousand dollars
for construction work or for the purchase of equipment and
improvements, extensions or replacements, shall be entered
into only after notice inviting bids shall have been published
as a Class I legal advertisement in compliance with the
provisions of article three, chapter fifty-nine of this code and
the publication area for such publication shall be the district.
The publication shall not be less than ten days prior to the
making of any such contract. If the public service
commission determines an emergency situation exists within
the public service district, all contracts involving the
expenditure by the district of more than two thousand dollars
for emergency construction work or for the emergency
purchase of equipment and improvements, extensions or
replacements, may be entered without compliance to notice
inviting bids and publication requirements. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the constitution but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.

§16-13A-8. Acquisition and purchase of public service properties; right of eminent domain; extraterritorial powers.

The board may acquire any publicly or privately owned public service properties located within the boundaries of the district regardless of whether or not all or any part of such properties are located within the corporate limits of any city, incorporated town or other municipal corporation included within the district and may purchase and acquire all rights and franchises and any and all property within or outside the district necessary or incidental to the purpose of the district.

The board may construct any public service properties within or outside the district necessary or incidental to its purposes and each such district may acquire, construct, maintain and operate any such public service properties within the corporate limits of any city, incorporated town or other municipal corporation included within the district or in any unincorporated territory within ten miles of the territorial boundaries of the district: Provided, That if any incorporated city, town or other municipal corporation included within the district owns and operates either water facilities, sewer facilities, or gas facilities or all of these, then the district may not acquire, construct, establish, improve or extend any public service properties of the same kind within such city, incorporated towns or other municipal corporations or the adjacent unincorporated territory served by such cities, incorporated towns or other municipal corporations, except upon the approval of the public service commission, the consent of such cities, incorporated towns or other municipal corporations and in conformity and compliance with the rights of the holders of any revenue bonds or obligations theretofore issued by such cities, incorporated towns or other
municipal corporations then outstanding and in accordance
with the ordinance, resolution or other proceedings which
authorize the issuance of such revenue bonds or obligations.
Whenever such district has constructed, acquired or
established water facilities, sewer facilities or gas facilities for
water, sewer or gas services within any city, incorporated
town or other municipal corporation included within a
district, then such city, incorporated town or other municipal
corporation may not thereafter construct, acquire or establish
any facilities of the same kind within such city, incorporated
town or other municipal corporation without the consent of
such district.
For the purpose of acquiring any public service properties
or lands, rights or easements deemed necessary or incidental
for the purposes of the district, each such district has the right
of eminent domain to the same extent and to be exercised in
the same manner as now or hereafter provided by law for
such right of eminent domain by cities, incorporated towns
and other municipal corporations: Provided, That such board
may not acquire all or any substantial part of a privately
owned waterworks system unless and until authorized so to
do by the public service commission of West Virginia, and
that this section shall not be construed to authorize any
district to acquire through condemnation proceedings either
in whole or substantial part an existing privately owned
waterworks plant or system or gas facilities located in or
furnishing water or gas service within such district or
extensions made or to be made by it in territory contiguous to
such existing plant or system, nor may any such board
construct or extend its public service properties to supply its
services into areas served by or in competition with existing
waterworks or gas facilities or extensions made or to be made
in territory contiguous to such existing plant or system by the
owner thereof.
§16-13A-9. Rules and regulations; service rates and charges;
discontinuance of service to delinquent users;
requiring connections with certain water and
sewer facilities; lien for delinquent fees; certain
sewer disposal systems exempted.
The board may make, enact and enforce all needful rules
and regulations in connection with the acquisition,
construction, improvement, extension, management,
maintenance, operation, care, protection and the use of any public service properties owned or controlled by the district, and the board shall establish rates and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of such public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds hereunder. The schedule of such rates and charges may be based upon either (a) the consumption of water or gas on premises connected with such facilities, taking into consideration domestic, commercial, industrial and public use of water and gas; or (b) the number and kind of fixtures connected with such facilities located on the various premises; or (c) the number of persons served by such facilities; or (d) any combination thereof; or (e) may be determined on any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the services and facilities furnished. Where water, sewer and gas services are all furnished to any premises the schedule of charges may be billed as a single amount for the aggregate thereof. Whenever any rates, rentals or charges for services or facilities furnished remain unpaid for a period of thirty days after the same become due and payable, the property and the owner thereof, as well as the user of the services and facilities shall be delinquent until such time as all such rates and charges are fully paid. The board may, under reasonable rules and regulations promulgated by the public service commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both. In the event that any city, incorporated town or other municipal corporation included within the district owns and operates separately either water facilities or gas facilities, and the district owns and operates within such city, incorporated town or other municipal corporation the other kind of facilities, either water or gas facilities, as the case may be, then the district and such city, incorporated town or other municipal corporation may covenant and contract with each
other to shut off and discontinue the supplying of the kind of
facilities furnished by the district or such city, incorporated
town or other municipal corporation, as the case may be, for
the nonpayment of fees and charges for the other kind of
facilities furnished by the district or city, incorporated town
or other municipal corporation, as the case may be.

Any district furnishing sewer facilities within the district
may require all owners, tenants or occupants of any houses,
dwellings and buildings located near any such sewer
facilities, where sewage will flow by gravity or be transported
by such other methods approved by the department of health
from such houses, dwellings or buildings into such sewer
facilities, to connect with and use such sewer facilities, and to
cease the use of all other means for the collection, treatment
and disposal of sewage and waste matters from such houses,
dwellings and buildings where there is such gravity flow or
transportation by such other methods approved by the
department of health and such houses, dwellings and
buildings can be adequately served by the sewer facilities of
the district, and it is hereby found, determined and declared
that the mandatory use of such sewer facilities provided for in
this paragraph is necessary and essential for the health and
welfare of the inhabitants and residents of such districts and
of the state.

If the property owner must connect with the sewer facilities
even when sewage from such dwellings may not flow to the
main line by gravity and the property owner must incur costs
for any changes in the existing dwelling plumbing in order to
connect to the main sewer line, the public service district
board shall authorize the district to pay all reasonable costs
for such changes in the plumbing, including but not limited
to installation, operation, maintenance and purchase of a
pump, or any other method approved by the department of
health; maintenance and operation costs for such extra
installation should be reflected in the users charge for
approval of the public service commission.

Whenever any district has made available sewer facilities to
any owner, tenant or occupant of any house, dwelling or
building located near such sewer facility, and the engineer for
the district has certified that such sewer facilities are
available to and are adequate to serve such owner, tenant, or
occupant, and sewage will flow by gravity or be transported by such other methods approved by the department of health from such house, dwelling or building into such sewer facilities, the district may charge, and such owner, tenant or occupant shall pay the rates and charges for services established under this article only after thirty-day notice of the availability of the facilities has been received by the owner.

All delinquent fees, rates and charges of the district for either water facilities, sewer facilities or gas facilities are liens on the premises served of equal dignity, rank and priority with the lien on such premises of state, county, school and municipal taxes. When such fees, rates and charges have been delinquent for thirty days, the district may forthwith foreclose the lien on the premises served in the same manner now provided in the laws of the state of West Virginia for the foreclosure of mortgages on real property.

Anything in this section to the contrary notwithstanding, any establishment, as defined in chapter twenty, article five-a, section two, now or hereafter operating its own sewage disposal system, pursuant to a permit issued by the department of natural resources, as prescribed by chapter twenty, article five-a, section seven of this code, is exempt from the provisions of this section.


The board shall establish the beginning and ending of its fiscal year, which period shall constitute its budget year, and at least thirty days prior to the beginning of the first full fiscal year after the creation of the district and annually thereafter the general manager shall prepare and submit to the board a tentative budget which shall include all operation and maintenance expenses, payments to a capital replacement account and bond payment schedules for the ensuing fiscal year. Such tentative budget shall be considered by the board, and, subject to any revisions or amendments that may be determined by the board, shall be adopted as the budget for the ensuing fiscal year. Upon adoption of the budget, a copy of the budget shall be forwarded to the county commission. No expenditures for operation and maintenance expenses in excess of the budget shall be made during such fiscal year unless unanimously authorized and directed by the board.
§16-13A-11. Accounts; audit.
1 The general manager, under direction of the board, shall
2 install and maintain a proper system of accounts showing
3 receipts from operation and application of the same, and the
4 board shall at least once a year cause such accounts to be
5 properly audited by an independent public accountant. A
6 copy of the audit shall be forwarded within thirty days of
7 completion to the county commission and to the public
8 service commission.
9 The treasurer of each public service district shall keep and
10 preserve all financial records of the public service district,
11 and shall at all times have such records readily available for
12 public inspection. At the end of his term of office, the
13 treasurer of each public service district shall promptly deliver
14 all financial records of the public service district to his
15 successor in office. Any treasurer of a public service district
16 who knowingly or willfully violates any provision of this
17 section is guilty of a misdemeanor and shall be fined not less
18 than one hundred dollars nor more than five hundred dollars
19 or imprisoned in the county jail not more than ten days, or
20 both.

§16-13A-12. Disbursement of district funds.
1 No money may be paid out by a district except upon an
2 order signed by the chairman and secretary of such board, or
3 such other person or persons authorized by the chairman or
4 secretary, as the case may be, to sign such orders on their
5 behalf. Each order for the payment of money shall specify the
6 purposes for which the amount thereof is to be paid, with
7 sufficient clearness to indicate the purpose for which the
8 order is issued, and there shall be endorsed thereon the name
9 of the particular fund out of which it is payable and it shall be
10 payable from the fund constituted for such purpose, and no
11 other. All such orders shall be reflected in the minutes of the
12 next meeting of the board.

§16-13A-18a. Sale, lease or rental of water system by district; distribution of proceeds.
1 In any case where a public service district owns a water
2 system, and all the members of the public service board
3 thereof deem it for the best interests of the district to sell,
4 lease or rent such water system to any municipality or
5 privately owned water system, or to any water system owned
by an adjacent public service district, the board may so sell, lease or rent such water system upon such terms and conditions as said board, in its discretion, considers in the best interests of the district: Provided, That such sale, leasing or rental may be made only upon approval by the public service commission of West Virginia.

In the event of any such sale, the proceeds thereof, if any, remaining after payment of all outstanding bonds and other obligations of the district shall be ratably distributed to any persons who have made contributions in aid of construction of such water system, such distribution not to exceed the actual amount of any such contribution, without interest, and any balance of funds thereafter remaining shall be paid to the county commission of the county in which the major portion of such water system is located to be placed in the general funds of such county commission.

§16-13A-24. Acceptance of loans or temporary advances from, and contracts and agreements with, federal agencies or private parties.

Any public service district created pursuant to the provisions of this article is authorized and empowered to accept loans or grants and procure loans or temporary advances evidenced by notes or other negotiable instruments issued in the manner, and subject to the privileges and limitations, set forth with respect to bonds authorized to be issued under the provisions of this article, for the purpose of paying part or all of the cost of construction or acquisition of water systems, sewage systems, or gas facilities, or all of these, and the other purposes herein authorized, from any authorized agency or from the United States of America or any federal or public agency or department of the United States or any private agency, corporation or individual, which loans or temporary advances, including the interest thereon, may be repaid out of the proceeds of the bonds authorized to be issued under the provisions of this article, the revenues of the said water system, sewage system or gas facilities or grants to the public service district from any authorized agency or from the United States of America or any federal or public agency or department of the United States or from any private agency, corporation or individual or from any combination of such sources of payment, and to enter into the necessary contracts and agreements to carry out the purposes
hereof with any authorized agency or the United States of America or any federal or public agency or department of the United States, or with any private agency, corporation or individual.

§16-13A-25. Consent and approval of public service commission required before public service district borrows money, issues bonds, etc.; requirements of form for residents to file in opposition to the public service district borrowing money or issuing revenue bonds; qualifications for public service commission consenting or approving public service district request to borrow money or issue revenue bonds.

Notwithstanding any other provisions of this article to the contrary, a public service district shall not borrow money or issue or contract to issue revenue bonds or exercise any of the powers conferred by the provisions of section thirteen, twenty or twenty-four of this article without the prior consent and approval of the public service commission. Notwithstanding any other provision of this code, when a public service district is seeking to borrow money for the acquisition or construction of public service properties, or contract to issue revenue bonds to commence the construction or acquisition of public service properties, the public service district shall publish a Class II legal advertisement in a newspaper of general circulation within the district, which legal advertisement shall state:

1. the amount of money to be borrowed, or the amount of revenue bonds to be issued;
2. the interest rate and terms of the loan or bonds;
3. the public service properties to be acquired or constructed, and the cost of same;
4. the anticipated rates which will be charged by the district; and
5. the fact that a form is available in the county clerk's office and at the office of the public service district for residents of that portion of the public service district which will be served by the public service property to be acquired or constructed to sign indicating their opposition to the public service district borrowing money or issuing revenue bonds.

In addition, the public service district shall cause to be posted in conspicuous places throughout that portion of the public
service district which will be served by the public service property to be acquired or constructed signs measuring not less than eight and one-half inches in width and eleven inches in length which include the same information as required in the Class II legal advertisement.

For a period of thirty days beginning with the first publication of the legal advertisement, the county clerk shall maintain within the courthouse of the county containing the public service district and the public service district shall maintain at its office a form provided by the public service district to be signed by any registered voter who is a resident of that portion of the public service district which will be served by the public service property to be acquired or constructed, and who is opposed to the public service district borrowing money or issuing revenue bonds upon the terms or for the purpose stated in the legal advertisement. The form available in the county clerk's office and in the office of the public service district shall state:

1. the amount of money to be borrowed, or the amount of revenue bonds to be issued;
2. the interest rate and terms of the loan or bonds;
3. the public service properties to be acquired or constructed, and the cost of same; and
4. the anticipated rates which will be charged by the district. The form shall be arranged in a manner that permits every registered voter who is opposed to sign his name and list his address. The commission shall not grant its consent and approval if more than fifty percent of the registered voters who are residents of that portion of the public service district which will be served by the public service property to be acquired or constructed sign the form indicating their opposition. The commission may grant its consent and approval subject to such terms and conditions as may be necessary for the protection of the public interest, pursuant to the provisions of chapter twenty-four of this code, or may withhold such consent and approval for the protection of the public interest.

In the event of disapproval, the reasons therefor shall be assigned in writing by the commission. If written disapproval has not been given by the commission within sixty days after receipt of the application by the commission, it may be deemed by the applicant that approval has in fact been given.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take 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 is approved this the 29th day of April, 1981.

Governor