WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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ENROLLED

HOUSE BILL No. 2168

(By Del. Philip Mountains Coop)

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Passed April 8, 1989

In Effect from Passage
ENROLLED
H. B. 2108
(By Delegates Phyllips and Roop)

[Passed April 8, 1989; in effect from passage.]

AN ACT to amend and reenact sections nine and thirteen, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to public service districts; requiring certain information in applications for service; requiring security deposits from new applicants; requiring certain notices of delinquency and termination of service; specifying certain conditions and procedures for termination of service, and adjusting the interest rate and interest cost of the proceeds on public service district revenue bonds.

Be it enacted by the Legislature of West Virginia:

That sections nine and thirteen, 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-9. Rules and regulations; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.

1 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 fur-
nished. 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.
The board shall require all users of services and
facilities furnished by the district to designate on every
application for service whether the applicant is a tenant
or an owner of the premises to be served. If the
applicant is a tenant, he shall state the name and
address of the owner or owners of the premises to be
served by the district. All new applicants for service
shall deposit a minimum of fifty dollars with the district
to secure the payment of service rates and charges in
the event they become delinquent as provided in this
section. In any case where a deposit is forfeited to pay
service rates and charges which were delinquent at the
time of disconnection or termination of service, no
reconnection or reinstatement of service may be made
by the district until another minimum deposit of fifty
dollars has been remitted to the district. 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 provided shall be delinquent and the
owner, user and property shall be held liable at law
until such time as all such rates and charges are fully
paid: Provided, That the property owner shall be given
notice of any said delinquency by certified mail, return
receipt requested. 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: Provided, however, That upon written
request of the owner or owners of the premises, the
board shall shut off and discontinue water and gas
services where any rates, rentals, or charges for services
or facilities remain unpaid by the user of the premises
for a period of sixty days after the same became due and
payable.

In the event that any publicly or privately owned
utility, city, incorporated town, other municipal corpo-
ration or other public service district included within
the district owns and operates separately either water
facilities or sewer facilities, and the district owns and
operates the other kind of facilities, either water or
sewer, as the case may be, then the district and such
publicly or privately owned utility, city, incorporated
town or other municipal corporation or other public
service district shall covenant and contract with each
other to shut off and discontinue the supplying of water
service for the nonpayment of sewer service fees and
charges: Provided, That any contracts entered into by
a public service district pursuant to this section shall be
submitted to the public service commission for approval.
Any public service district providing water and sewer
service to its customers shall have the right to terminate
water service for delinquency in payment of either
water or sewer bills. Where one public service district
is providing sewer service and another public service
district or a municipality included within the boundar-
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The district providing sewer service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer district that is providing water service, upon the request of the district providing sewer service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer account: Provided, however, That any termination of water service must comply with all rules, regulations and orders of the public service commission.

Any district furnishing sewer facilities within the district may require, or may by petition to the circuit court of the county in which the property is located, compel or may require the department of health to compel 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 including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, 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 including, but not limited to, vacuum and pressure systems, approved under the provisions of section nine, article one, chapter sixteen of this code, 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: Provided, That if the public service district determines that 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 dwellings' exterior 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 exterior 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. The circuit court shall adjudicate the merits of such petition by summary hearing to be held not later than thirty days after service of petition to the appropriate owners, tenants or occupants.

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. In addition to the other remedies provided in this section, public service districts are hereby granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrates court for the collection of delinquent water, sewer or gas bills. If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible
party, the district shall pay to the magistrate the normal
filing fee and reasonable costs which were previously
defered. In addition, each public service district may
exchange with other public service districts a list of
delinquent accounts.

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


1 For constructing or acquiring any public service
properties for the authorized purposes of the district, or
necessary or incidental thereto, and for constructing
improvements and extensions thereto, and also for
reimbursing or paying the costs and expenses of
creating the district, the board of any such district is
hereby authorized to borrow money from time to time
and in evidence thereof issue the bonds of such district,
payable solely from the revenues derived from the
operation of the public service properties under control
of the district. Such bonds may be issued in one or more
series, may bear such date or dates, may mature at such
time or times not exceeding forty years from their
respective dates, may bear interest at such rate or rates
not exceeding eighteen percent per annum payable at
such times, may be in such form, may carry such
registration privileges, may be executed in such
manner, may be payable at such place or places, may
be subject to such terms of redemption with or without
premium, may be declared or become due before
maturity date thereof, may be authenticated in any
manner, and upon compliance with such conditions, and
may contain such terms and covenants as may be
provided by resolution or resolutions of the board.
Notwithstanding the form or tenor thereof, and in the
absence of any express recital on the face thereof, that
the bond is nonnegotiable, all such bonds shall be, and
shall be treated as, negotiable instruments for all
purposes. Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner and at such time or times as is found by the board to be most advantageous, and all such bonds may be sold at such price that the interest cost of the proceeds therefrom does not exceed nineteen percent per annum, based on the average maturity of such bonds and computed according to standard tables of bond values. Any resolution or resolutions providing for the issuance of such bonds may contain such covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick L. Parker  
Chairman Senate Committee

F. L. Satter  
Chairman House Committee

Originating in the House.

Takes effect from passage.

J. B. Wells  
Clerk of the Senate

Donald J. teg  
Clerk of the House of Delegates

Tony R. Tonelson  
President of the Senate

Speaker of the House of Delegates

The within is approved this the 25th day of April, 1989.

Gaston Caperton  
Governor