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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

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SECRETARY OF STATE

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COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 568

(By Senator Wooten)

PASSED MARCH 9 1996
In Effect NINETY DAYS FROM Passage

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COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 568

(SENATOR WOOTON, *original sponsor*)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-five, article thirteen-a, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact sections one-b and three, article one, chapter twenty-four of said code; and to amend and reenact section two, article two of said chapter, all relating to the public service commission; decreasing the time period to prefile for a certificate of public convenience and necessity in advance of the formal application from sixty to thirty days; requiring the public service commission to advise and assist Class III cities and Class IV towns or villages; adjusting the salaries of the members of the public service commission; and allowing the public service commission to establish water and sewer rates based on the debt costs associated with new projects.

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Be it enacted by the Legislature of West Virginia:

That section 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; that sections one-b and three, article one, chapter twenty-four of said code be amended and reenacted; and that section two, article two of said chapter be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 13A. PUBLIC SERVICE DISTRICTS FOR WATER, SEWERAGE AND GAS SERVICES.

§16-13A-25. Borrowing and bond issuance; procedure.

1 Notwithstanding any other provisions of this article to
2 the contrary, a public service district shall not borrow
3 money, enter into contracts for the provision of engineer-
4 ing, design or feasibility studies, issue or contract to
5 issue revenue bonds or exercise any of the powers
6 conferred by the provisions of section thirteen, twenty or
7 twenty-four of this article, without the prior consent and
8 approval of the public service commission. Unless the
9 properties to be constructed or acquired represent
10 ordinary extensions or repairs of existing systems in the
11 usual course of business, a public service district must
12 first obtain a certificate of public convenience and
13 necessity from the public service commission in accor-
14 dance with the provisions of chapter twenty-four of this
15 code, when a public service district is seeking to acquire
16 or construct public service property.

17 Thirty days prior to making formal application for the
18 certificate, the public service district shall prefile with
19 the public service commission its plans and supporting
20 information for the project and shall publish a Class II
21 legal advertisement in a newspaper or newspapers of
22 general circulation in each city, incorporated town or
23 municipal corporation if available in the public service
24 district, which legal advertisement shall state:

25 (a) The amount of money to be borrowed, or the

26 amount of revenue bonds to be issued: *Provided*, That if
27 the amount is an estimate, the notice may be stated in
28 terms of an amount “not to exceed” a specific amount;

29 (b) The interest rate and terms of the loan or bonds:
30 *Provided*, That if the interest rate is an estimate, the
31 notice may be stated in terms of a rate “not to exceed” a
32 specific rate;

33 (c) The public service properties to be acquired or
34 constructed, and the cost of the public service properties;

35 (d) The anticipated rates which will be charged by the
36 public service district: *Provided*, That if the rates are an
37 estimate, the notice may be stated in terms of rates “not
38 to exceed” a specific rate; and

39 (e) The date that the formal application for a certificate
40 of public convenience and necessity is to be filed with
41 the public service commission. The public service
42 commission may grant its consent and approval for the
43 certificate, or any other request for approval under this
44 section, subject to such terms and conditions as may be
45 necessary for the protection of the public interest,
46 pursuant to the provisions of chapter twenty-four of this
47 code, or may withhold such consent and approval for the
48 protection of the public interest.

49 In the event of disapproval, the reasons for the disap-
50 proval shall be assigned in writing by the commission.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 1. GENERAL PROVISIONS.

§24-1-1b. Supplemental rule for reorganization.

1 The public service commission shall, by general order,
2 create a division within its staff which shall provide
3 legal, engineering, financial and accounting advice and
4 assistance to public service districts and Class III cities
5 and Class IV towns or villages in operational, financial
6 and regulatory matters, and may perform or participate
7 in the studies required under section one-b, article

8 thirteen-a, chapter sixteen of this code: *Provided*, That
9 advice and assistance to a Class III city or Class IV town
10 or village shall only be given if such advice or assistance
11 is specifically requested by the Class III city or the Class
12 IV town or village. The request may be withdrawn by
13 the city or town at any time, after which the commission
14 shall not provide further assistance or advice.

**§24-1-3. Commission continued; membership; chairman;
compensation.**

1 (a) The public service commission of West Virginia,
2 heretofore established, is continued and directed as
3 provided by this chapter, chapter twenty-four-a and
4 chapter twenty-four-b of this code. After having con-
5 ducted a performance audit through its joint committee
6 on government operations, pursuant to section nine,
7 article ten, chapter four of this code, the Legislature
8 hereby finds and declares that the public service com-
9 mission should be continued and reestablished. Accord-
10 ingly, notwithstanding the provisions of section four,
11 article ten, chapter four of this code, the public service
12 commission shall continue to exist until the first day of
13 July, one thousand nine hundred ninety-nine. The public
14 service commission may sue and be sued by that name.
15 The public service commission shall consist of three
16 members who shall be appointed by the governor with
17 the advice and consent of the Senate. The commissioners
18 shall be citizens and residents of this state and at least
19 one of them shall be duly licensed to practice law in
20 West Virginia, with not less than ten years' actual work
21 experience in the legal profession as a member of a state
22 bar. No more than two of the commissioners shall be
23 members of the same political party. Each commissioner
24 shall, before entering upon the duties of his or her office,
25 take and subscribe to the oath provided by section five,
26 article IV of the constitution of this state. The oath shall
27 be filed in the office of the secretary of state. The
28 governor shall designate one of the commissioners to
29 serve as chairman at the governor's will and pleasure.
30 The chairman shall be the chief administrative officer of

31 the commission. The governor may remove any commis-
32 sioner only for incompetency, neglect of duty, gross
33 immorality, malfeasance in office or violation of subsec-
34 tion (c) of this section.

35 (b) The unexpired terms of members of the public
36 service commission at the time this subsection becomes
37 effective are continued. Upon expiration of the terms,
38 appointments are for terms of six years, except that an
39 appointment to fill a vacancy is for the unexpired term
40 only. The commissioners whose terms are terminated by
41 the provisions of this subsection are eligible for reap-
42 pointment.

43 (c) No person while in the employ of, or holding any
44 official relation to, any public utility subject to the
45 provisions of this chapter, or holding any stocks or bonds
46 of a public utility subject to the provisions of this
47 chapter, or who is pecuniarily interested in a public
48 utility subject to the provisions of this chapter, may
49 serve as a member of the commission or as an employee
50 of the commission. Nor may any commissioner be a
51 candidate for or hold public office, or be a member of
52 any political committee, while acting as a commissioner;
53 nor may any commissioner or employee of the commis-
54 sion receive any pass, free transportation or other thing
55 of value, either directly or indirectly, from any public
56 utility or motor carrier subject to the provisions of this
57 chapter. In case any of the commissioners becomes a
58 candidate for any public office or a member of any
59 political committee, the governor shall remove him or
60 her from office and shall appoint a new commissioner to
61 fill the vacancy created.

62 (d) The salaries of members of the public service
63 commission and the manner in which they are paid
64 established by the prior enactment of this section are
65 continued. Effective the first day of July, one thousand
66 nine hundred ninety-six, and in light of the assignment
67 of new, substantial additional duties embracing new
68 areas and fields of activity under certain legislative

69 enactments, each commissioner shall receive an annual
70 salary of sixty-five thousand dollars to be paid in
71 monthly installments from the special funds in the
72 amounts that follows:

73 (1) From the public service commission fund collected
74 under the provisions of section six, article three of this
75 chapter, fifty-two thousand dollars;

76 (2) From the public service commission motor carrier
77 fund collected under the provisions of section six, article
78 six, chapter twenty-four-a of this code, ten thousand
79 eight hundred fifty dollars; and

80 (3) From the public service commission gas pipeline
81 safety fund collected under the provisions of section
82 three, article five, chapter twenty-four-b of this code,
83 two thousand one hundred fifty dollars.

84 In addition to this salary provided for all commission-
85 ers, the chairman of the commission shall receive five
86 thousand dollars per annum to be paid in monthly
87 installments from the public service commission fund
88 collected under the provisions of section six, article three
89 of this chapter on and after the first day of July, one
90 thousand nine hundred ninety-six.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

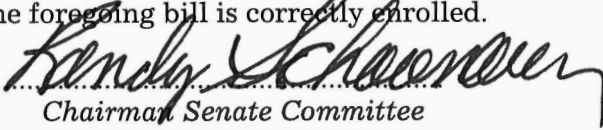
§24-2-2. General power of commission to regulate public utilities.

1 (a) The commission is hereby given power to investi-
2 gate all rates, methods and practices of public utilities
3 subject to the provisions of this chapter; to require them
4 to conform to the laws of this state and to all rules,
5 regulations and orders of the commission not contrary to
6 law; and to require copies of all reports, rates, classifica-
7 tions, schedules and timetables in effect and used by the
8 public utility or other person, to be filed with the com-
9 mission, and all other information desired by the com-
10 mission relating to the investigation and requirements,
11 including inventories of all property in such form and
12 detail as the commission may prescribe. The commission

13 may compel obedience to its lawful orders by mandamus
14 or injunction or other proper proceedings in the name of
15 the state in any circuit court having jurisdiction of the
16 parties or of the subject matter, or the supreme court of
17 appeals direct, and the proceedings shall have priority
18 over all pending cases. The commission may change any
19 intrastate rate, charge or toll which is unjust or unrea-
20 sonable or any interstate charge with respect to matters
21 of a purely local nature which have not been regulated
22 by or pursuant to an act of Congress and may prescribe
23 a rate, charge or toll that is just and reasonable, and
24 change or prohibit any practice, device or method of
25 service in order to prevent undue discrimination or
26 favoritism between persons and between localities and
27 between commodities for a like and contemporaneous
28 service. But in no case shall the rate, toll or charge be
29 more than the service is reasonably worth, considering
30 the cost of the service. Every order entered by the
31 commission shall continue in force until the expiration
32 of the time, if any, named by the commission in the
33 order, or until revoked or modified by the commission,
34 unless the order is suspended, modified or revoked by
35 order or decree of a court of competent jurisdiction.

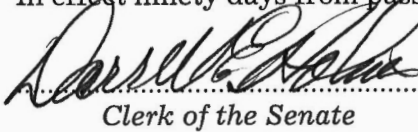
36 (b) Notwithstanding any other provision of this code to
37 the contrary, rates are not discriminatory if, when
38 considering the debt costs associated with a future water
39 or sewer project which would not benefit existing
40 customers, the commission establishes rates which
41 ensure that the future customers to be served by the new
42 project are solely responsible for the debt costs associ-
43 ated with the project.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

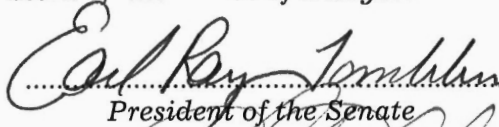

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Chairman Senate Committee


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Chairman House Committee

Originated in the Senate.
In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


.....
Speaker House of Delegates

The within *is approved* this the *1st*
day of *April*, 1996.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/96

Time 9:55 am