WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1996

ENROLLED

Committee Substitute For
SENATE BILL NO. 568

(By Senator

Passed ________
In Effect ________
1996
Ninety Days From Passage
ENROLLED

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.
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 the contrary, a public service district shall not borrow money, enter into contracts for the provision of engineering, design or feasibility studies, 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. Unless the properties to be constructed or acquired represent ordinary extensions or repairs of existing systems in the usual course of business, a public service district must first obtain a certificate of public convenience and necessity from the public service commission in accordance with the provisions of chapter twenty-four of this code, when a public service district is seeking to acquire or construct public service property.

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

25 (a) The amount of money to be borrowed, or the
amount of revenue bonds to be issued: *Provided*, That if the amount is an estimate, the notice may be stated in terms of an amount “not to exceed” a specific amount;

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

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

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

(e) The date that the formal application for a certificate of public convenience and necessity is to be filed with the public service commission. The public service commission may grant its consent and approval for the certificate, or any other request for approval under this section, 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 for the disapproval 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, create a division within its staff which shall provide legal, engineering, financial and accounting advice and assistance to public service districts and Class III cities and Class IV towns or villages in operational, financial and regulatory matters, and may perform or participate in the studies required under section one-b, article
thirteen-a, chapter sixteen of this code: Provided, That
advice and assistance to a Class III city or Class IV town
or village shall only be given if such advice or assistance
is specifically requested by the Class III city or the Class
IV town or village. The request may be withdrawn by
the city or town at any time, after which the commission
shall not provide further assistance or advice.

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

(a) The public service commission of West Virginia,
heretofore established, is continued and directed as
provided by this chapter, chapter twenty-four-a and
chapter twenty-four-b of this code. After having con-
ducted a performance audit through its joint committee
on government operations, pursuant to section nine,
article ten, chapter four of this code, the Legislature
hereby finds and declares that the public service com-
mission should be continued and reestablished. Accord-
ingly, notwithstanding the provisions of section four,
article ten, chapter four of this code, the public service
commission shall continue to exist until the first day of
July, one thousand nine hundred ninety-nine. The public
service commission may sue and be sued by that name.
The public service commission shall consist of three
members who shall be appointed by the governor with
the advice and consent of the Senate. The commissioners
shall be citizens and residents of this state and at least
one of them shall be duly licensed to practice law in
West Virginia, with not less than ten years’ actual work
experience in the legal profession as a member of a state
bar. No more than two of the commissioners shall be
members of the same political party. Each commissioner
shall, before entering upon the duties of his or her office,
take and subscribe to the oath provided by section five,
article IV of the constitution of this state. The oath shall
be filed in the office of the secretary of state. The
governor shall designate one of the commissioners to
serve as chairman at the governor’s will and pleasure.
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
36 (b) The unexpired terms of members of the public
37 service commission at the time this subsection becomes
38 effective are continued. Upon expiration of the terms,
39 appointments are for terms of six years, except that an
40 appointment to fill a vacancy is for the unexpired term
41 only. The commissioners whose terms are terminated by
42 the provisions of this subsection are eligible for re-ap-
43 pointment.
44
45 (c) No person while in the employ of, or holding any
46 official relation to, any public utility subject to the
47 provisions of this chapter, or holding any stocks or bonds
48 of a public utility subject to the provisions of this
49 chapter, or who is pecuniarily interested in a public
50 utility subject to the provisions of this chapter, may
51 serve as a member of the commission or as an employee
52 of the commission. Nor may any commissioner be a
53 candidate for or hold public office, or be a member of
54 any political committee, while acting as a commissioner;
55 nor may any commissioner or employee of the commis-
56 sion receive any pass, free transportation or other thing
57 of value, either directly or indirectly, from any public
58 utility or motor carrier subject to the provisions of this
59 chapter. In case any of the commissioners becomes a
60 candidate for any public office or a member of any
61 political committee, the governor shall remove him or
62 her from office and shall appoint a new commissioner to
63 fill the vacancy created.
64
65 (d) The salaries of members of the public service
66 commission and the manner in which they are paid
67 established by the prior enactment of this section are
68 continued. Effective the first day of July, one thousand
69 nine hundred ninety-six, and in light of the assignment
70 of new, substantial additional duties embracing new
71 areas and fields of activity under certain legislative
enactments, each commissioner shall receive an annual
salary of sixty-five thousand dollars to be paid in
monthly installments from the special funds in the
amounts that follows:

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

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

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

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

(a) The commission is hereby given power to investi-
gate all rates, methods and practices of public utilities
subject to the provisions of this chapter; to require them
to conform to the laws of this state and to all rules,
regulations and orders of the commission not contrary to
law; and to require copies of all reports, rates, classifica-
tions, schedules and timetables in effect and used by the
public utility or other person, to be filed with the com-
mission, and all other information desired by the com-
mission relating to the investigation and requirements,
including inventories of all property in such form and
detail as the commission may prescribe. The commission
may compel obedience to its lawful orders by mandamus or injunction or other proper proceedings in the name of the state in any circuit court having jurisdiction of the parties or of the subject matter, or the supreme court of appeals direct, and the proceedings shall have priority over all pending cases. The commission may change any intrastate rate, charge or toll which is unjust or unreasonable or any interstate charge with respect to matters of a purely local nature which have not been regulated by or pursuant to an act of Congress and may prescribe a rate, charge or toll that is just and reasonable, and change or prohibit any practice, device or method of service in order to prevent undue discrimination or favoritism between persons and between localities and between commodities for a like and contemporaneous service. But in no case shall the rate, toll or charge be more than the service is reasonably worth, considering the cost of the service. Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order is suspended, modified or revoked by order or decree of a court of competent jurisdiction.

(b) Notwithstanding any other provision of this code to the contrary, rates are not discriminatory if, when considering the debt costs associated with a future water or sewer project which would not benefit existing customers, the commission establishes rates which ensure that the future customers to be served by the new project are solely responsible for the debt costs associated with the project.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

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

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within .............. this the ..............

day of .............., 1996.

[Signature]
Governor