WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013

ENROLLED

Senate Bill No. 82
(By Senators Snyder, Blair and Unger)

[PASSED APRIL 13, 2013; TO TAKE EFFECT JULY 1, 2013.]
ENROLLED
Senate Bill No. 82

(BY SENATORS SNYDER, BLAIR AND UNGER)

[Passed April 13, 2013; to take effect July 1, 2013.]

AN ACT to amend and reenact §16-13A-3 and §16-13A-4 of the Code of West Virginia, 1931, as amended, relating to public service district board membership; requiring a public service board to have at least one rate-paying residential customer of the public service district on the board; increasing the salary of public service district board members; clarifying when salary and expenses payments may be made; and adding sewer service to the salary schedule for public service districts which contract with others to provide service.

Be it enacted by the Legislature of West Virginia:

That §16-13A-3 and §16-13A-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 13A. PUBLIC SERVICE DISTRICTS.

§16-13A-3. District to be a public corporation and political subdivision; powers thereof; public service boards.

From and after the date of the adoption of the order creating any public service district, it is a public corporation and political subdivision of the state, but without any power to levy or collect ad valorem taxes. Each 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 the city, town
or other municipal corporation, or for furnishing storm water
services for the 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 the 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 the district: Provided, That no
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 the municipalities for the public service properties.

The powers of each 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 possess certain educational, business or
work experience which will be conducive to operating a
public service district. In the event the public service district
is providing any utility service and billing rates and charges
to its customers, at least one board member shall be a rate-
paying residential customer of the public service district:
Provided, That if an existing public service board does not
have a member who is a rate-paying residential customer of
the public service district on July 1, 2013, the next following
appointment to the board shall be a rate-paying residential
customer of that public service district. For purposes of this
section, "rate-paying residential customer" means a person
who:
(1) In the case of a water or sewer public service district, is physically connected to and actively receiving residential public service district utility services; or

(2) In the case of a storm water public service district, has storm water conveyed away from the residential property by a utility owned system; and

(3) Has an active account in good standing and is the occupier of the residential property which is on the public service district utility service account.

Each board member shall, within six months of taking office, successfully complete the training program to be established and administered by the Public Service Commission in conjunction with the Department of Environmental Protection and the Bureau of Public Health. Board members shall not be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service, or in furnishing any supplies or materials to the district nor shall a former board member be hired by the district in any capacity within a minimum of twelve months after board member's term has expired or such board member has resigned from the district board. The members shall be appointed in the following manner:

Each city, incorporated town or other municipal corporation having a population of more than three thousand but less than eighteen thousand is entitled to appoint one member of the board, and each city, incorporated town or other municipal corporation having a population in excess of eighteen thousand shall be entitled to appoint one additional member of the 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 the resolution or resolutions
in the office of the clerk of the county commission which
entered the order creating the district, the persons so
appointed 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
equals or exceeds three, then no further members shall be
appointed to the board and the members so appointed are the
board of the district except in cases of merger or
consolidation where the number of board members may equal
five.

If no city, incorporated town or other municipal
corporation having a population of more than three thousand
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 and residing within the State of West Virginia,
which three members become members of the board of the
district without any further act or proceedings except in cases
of merger or consolidation where the number of board
members may equal five.

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 except in cases of merger
or consolidation where the number of board members may
equal five, 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 the county
commission as aforesaid, are the board of the district. A person may serve as a member of the board in one or more public service districts.

The population of any city, incorporated town or other municipal corporation, for the purpose of determining the number of members of the board, if any, to be appointed by the governing body or bodies thereof, is the population stated for such city, incorporated town or other municipal corporation in the last official federal census.

Notwithstanding any provision of this code to the contrary, whenever a district is consolidated or merged pursuant to section two of this article, the terms of office of the existing board members shall end on the effective date of the merger or consolidation. The county commission shall appoint a new board according to rules promulgated by the Public Service Commission. Whenever districts are consolidated or merged no provision of this code prohibits the expansion of membership on the new board to five.

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 years, the term of the remaining member or members for six years, from the first day of the month during which the 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 the 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 district shall provide to the Public Service Commission, within thirty days of the appointment, the following information: The new board member's name, home address, home and office phone numbers, date of appointment, length of term, who the new member replaces and if the new appointee has previously served on the board. The Public Service Commission shall notify each new board member of the legal obligation to attend training as prescribed in this section.

The board shall organize within thirty days following the first appointments and annually thereafter at its first meeting after January 1 of each year by selecting one of its members to serve as chair and by appointing a secretary and a treasurer who need not be members of the 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 other duties appertaining to the affairs of the district and shall receive 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 chair, 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.

§16-13A-4. Board chairman; members' compensation; procedure; district name.

(a) The chairman shall preside at all meetings of the
board and may vote as any other member of the board. If the
chairman is 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.

(b) Salaries of the board members are:

1. For districts with fewer than six hundred customers,
   up to $100 per attendance at regular monthly meetings and
   $75 per attendance at additional special meetings, total salary
   not to exceed $2,000 per annum;

2. For districts with six hundred customers or more but
   fewer than two thousand customers, up to $125 per
   attendance at regular monthly meetings and $100 per
   attendance at additional special meetings, total salary not to
   exceed $3,250 per annum;

3. For districts with two thousand customers or more, but
   fewer than four thousand customers, up to $150 per
   attendance at regular monthly meetings and $100 per
   attendance at additional special meetings, total salary not to
   exceed $4,500 per annum; and

4. For districts with four thousand or more customers, up
to $200 per attendance at regular monthly meetings and $150
The public service district shall certify the number of customers served to the Public Service Commission on July 1 of each fiscal year.

(c) Public service districts selling water to other water utilities for resale or public service districts which provide sewer treatment for other sewer utilities may adopt the following salaries for its board members:

1. For districts with annual revenues of less than $50,000, up to $100 per attendance at regular monthly meetings and $75 per attendance at additional special meetings, total salary not to exceed $2,000 per annum;

2. For districts with annual revenues of $50,000 or more, but less than $250,000, up to $125 per attendance at regular monthly meetings and $100 per attendance at special meetings, total salary not to exceed $3,250 per annum;

3. For districts with annual revenues of $250,000 or more, but less than $500,000, up to $150 per attendance at regular monthly meetings and $100 per attendance at additional special meetings, total salary not to exceed $4,500 per annum; and

4. For districts with annual revenues of $500,000 or more, up to $200 per attendance at regular monthly meetings and $150 per attendance at additional special meetings, total salary not to exceed $6,400 per annum.

The public service district shall certify the number of customers served and its annual revenue to the Public Service Commission on July 1 of each fiscal year.
(d) Board members may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties as provided by the rules of the board. Notwithstanding any other provision of this code to the contrary, board members are not eligible for salary payment or reimbursement for expenses incurred prior to the public service district initiating service to its first customer. Salary and reimbursement for expenses may be incurred only at meetings occurring after the public service district initiated service to customers.

(e) 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 that section. A majority of the members constituting the board also constitute a quorum to do business.

(f) 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. The county commission which created a district or county commissions if more than one created the district may, upon written request of the district, adopt an order changing the official name of a public service district: Provided, That the name change will not be effective until approved by the Public Service Commission of West Virginia and the owners of any bonds and notes issued by the district, if any, shall have consented, in writing, to the name change. If a district includes territory located in more than one county, the county commission or county commissions changing the name of the district shall provide any county commission into which the district also extends with a certified copy of the order changing the name of the district. 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Member-Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2013.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 3rd Day of May, 2013.

Governor