

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Enrolled
Committee Substitute
for
Senate Bill 631

BY SENATORS BARRETT AND MARTIN

[Passed March 9, 2024; in effect 90 days from
passage (June 7, 2024)]

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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1 AN ACT to amend and reenact §16-13-16 of the Code of West Virginia, 1931, as amended; to
2 amend said code by adding thereto a new section, designated §16-13-16a; to amend and
3 reenact §16-13A-9 of said code; and to amend and reenact §24-3-10 of said code, all
4 relating to prohibiting utilities from shutting off a user's water service for nonpayment of
5 stormwater fees without notice and compliance with certain conditions; creating board to
6 hear appeals for assessment of estimated usage units; authorizing municipal utilities to
7 discontinue water service to user delinquent in stormwater services fees and charges only
8 after complying with certain requirements but imposing lien on premises served; allowing
9 public service districts to discontinue water service to user delinquent in stormwater
10 service fees and charges only after complying with certain requirements but imposing lien
11 on premises served; and authorizing privately or publicly owned utilities from discontinuing
12 water service, or contracting with other utilities to discontinue water service, for
13 delinquency in stormwater services fees and charges only after complying with certain
14 requirements but imposing lien on premises served.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 13. SEWAGE WORKS AND STORMWATER WORKS.

**§16-13-16. Rates for service; deposit required for new customers; forfeiture of deposit;
reconnecting deposit; tenant's deposit; change or readjustment; hearing; appeals
board.**

1 (a) A governing body has the power and duty, by ordinance, to establish and maintain just
2 and equitable rates, fees, or charges for the use of and the service rendered by:

3 (1) Sewerage works, to be paid by the owner of each lot, parcel of real estate or building
4 that is connected with and uses the works by or through any part of the sewerage system of the
5 municipality or that in any way uses or is served by the works; and

6 (2) Stormwater works, to be paid by the owner of each lot, parcel of real estate or building
7 that in any way uses or is served by the stormwater works or whose property is improved or
8 protected by the stormwater works or any user of such stormwater works.

9 (b) The governing body may change and readjust the rates, fees, or charges from time to
10 time. However, no rates, fees, or charges for stormwater services may be assessed against
11 highways, road and drainage easements or stormwater facilities constructed, owned, or operated
12 by the West Virginia Division of Highways.

13 (c) All new applicants for service shall indicate to the governing body whether they are an
14 owner or tenant with respect to the service location. An entity providing stormwater service shall
15 provide a new applicant for service a report of the stormwater fee charged for the entire property
16 and, if the new applicant is a tenant, that portion of the fee to be assessed to the tenant. Any
17 municipality that provides stormwater utilities shall form a municipal stormwater appeals board.
18 The board shall consist of a member of the stormwater utility board, a municipal council member,
19 and a rate payer. New applicants for service may appeal the estimated residential usage or
20 equivalent dwelling usage to the board. Any such appeal must be brought within 60 days of
21 receiving the report of the stormwater fee.

22 (d) The governing body may collect from all new applicants for service a deposit of \$50
23 or two twelfths of the average annual usage of the applicant's specific customer class, whichever
24 is greater, to secure the payment of service rates, fees, and charges in the event he or she
25 becomes delinquent as provided in this section. In any case where a deposit is forfeited to pay
26 service rates, fees, and charges which were delinquent at the time of disconnection or termination
27 of service, service may not be reconnected or reinstated by the governing body until another
28 deposit equal to \$50 or a sum equal to two twelfths of the average usage for the applicant's
29 specific customer class, whichever is greater, is remitted to the governing body. After 12 months
30 of prompt payment history, the governing body shall return the deposit to the customer or credit
31 the customer's account with interest at a rate as the Public Service Commission may prescribe:

32 *Provided*, That where the customer is a tenant, the governing body is not required to return the
33 deposit until the time the tenant discontinues service with the governing body.

34 (e) The rates, fees, or charges shall be sufficient in each year for the payment of the proper
35 and reasonable expense of operation, repair, replacements and maintenance of the works and
36 for the payment of the sums herein required to be paid into the sinking fund. Revenues collected
37 pursuant to this section shall be considered the revenues of the works.

38 (f) No such rates, fees, or charges may be established until after a public hearing, at which
39 all the users of the works and owners of property served or to be served thereby and others
40 interested shall have an opportunity to be heard concerning the proposed rates, fees, or charges.

41 (g) After introduction of the ordinance fixing the rates, fees, or charges, and before the
42 same is finally enacted, notice of the hearing, setting forth the proposed schedule of rates, fees,
43 or charges, shall be given by publication as a Class I legal advertisement in compliance with §59-
44 3-1 *et seq.* of this code and the publication area for the publication shall be the municipality. The
45 first publication shall be made at least five days before the date fixed in the notice for the hearing.

46 (h) After the hearing, which may be adjourned, from time to time, the ordinance
47 establishing rates, fees, or charges, either as originally introduced or as modified and amended,
48 shall be passed and put into effect. A copy of the schedule of the rates, fees, and charges shall
49 be kept on file in the office of the board having charge of the operation of the works, and also in
50 the office of the clerk of the municipality, and shall be open to inspection by all parties interested.
51 The rates, fees, or charges established for any class of users or property served shall be extended
52 to cover any additional premises thereafter served which fall within the same class, without the
53 necessity of any hearing or notice.

54 (i) Any change or readjustment of the rates, fees, or charges may be made in the same
55 manner as the rates, fees, or charges were originally established as hereinbefore provided:
56 *Provided*, That if a change or readjustment be made substantially pro rata, as to all classes of
57 service, no hearing or notice shall be required.

§16-13-16a. Discontinuance of services; lien and recovery.

58 (a) Whenever any rates, fees, rentals, or charges for services or facilities furnished remain
59 unpaid for a period of 20 days after they become due, the user of the services and facilities
60 provided is delinquent. The user is liable until all rates, fees, and charges are fully paid. When
61 any payment for rates, rentals, fees or charges becomes delinquent, the governing body may use
62 the security deposit collected in accordance with §16-13-16 of this code to satisfy the delinquent
63 payment.

64 (b) The governing body may, under reasonable rules promulgated by the Public Service
65 Commission, shut off and discontinue water services to a delinquent user of sewer facilities 10
66 days after the sewer services become delinquent regardless of whether the governing body
67 utilizes the security deposit to satisfy any delinquent payments: *Provided*, That nothing contained
68 within the rules of the Public Service Commission may require agents or employees of the
69 governing body to accept payment at the customer's premises in lieu of discontinuing service for
70 a delinquent bill.

71 (c) The board collecting the rates, fees, or charges shall be obligated under reasonable
72 rules to shut off and discontinue both water and sewer services to all delinquent users of water or
73 sewer facilities and shall not restore either water facilities or sewer facilities to any delinquent user
74 of any such facilities until all delinquent rates, fees, or charges for water and sewer facilities,
75 including reasonable interest and penalty charges, have been paid in full, as long as the actions
76 are not contrary to any rules or orders of the Public Service Commission: *Provided*, That nothing
77 contained within the rules of the Public Service Commission may be considered to require any
78 agents or employees of the municipality or governing body to accept payment at the customer's
79 premises in lieu of discontinuing service for a delinquent bill.

80 (d) The governing body or the board collecting the rates, fees, or charges may shut off
81 and discontinue water services to users with delinquent stormwater fees, provided that:

82 (1) The water service and stormwater fee are in the name of the same user;

83 (2) The rates, fees, or charges incurred by the user are at least 90 days past due;

84 (3) The provider has given the user written notice of termination of water service for
85 nonpayment. Such notice must be given to the user at least 10 days before the termination of
86 service and must notify the user of their right to enter into a deferred payment plan;

87 (4) The provider has attempted to make personal contact with the user at least two times
88 in the 24 hours immediately before the termination of the service. If the provider makes personal
89 contact with the user, the provider must inform the user of their right to enter into a deferred
90 payment plan.

91 (5) The water service for a user who has entered into a deferred payment plan under this
92 subsection may not be shut off or discontinued as long as the user is in conformance with the
93 agreed to payment plan. In the event the user falls out of compliance with the deferred payment
94 plan, no sooner than five days after the missed payment, the provider may terminate service:
95 *Provided*, That the provider must make one attempt to make personal contact with the user in the
96 24 hours immediately before the termination of the service.

97 (e) All rates, fees, or charges, if not paid when due, shall constitute a lien upon the
98 premises served by the works. If any service rate, fee, or charge is not paid within 20 days after
99 it is due, the amount thereof, together with a penalty of 10 percent and a reasonable attorney's
100 fee, may be recovered by the board in a civil action in the name of the municipality. The lien may
101 be foreclosed against the lot, parcel of land or building in accordance with the laws relating
102 thereto. Where both water and sewer services are furnished by any municipality to any premises,
103 the schedule of charges may be billed as a single amount or individually itemized and billed for
104 the aggregate thereof.

ARTICLE 13A. PUBLIC SERVICE DISTRICTS.

§16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees.

1 (a)(1) The board may make, enact, and enforce all needful rules in connection with the
2 acquisition, construction, improvement, extension, management, maintenance, operation, care,

3 protection, and the use of any public service properties owned or controlled by the district. The
4 board shall establish, in accordance with this article, rates, fees, and charges for the services and
5 facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any
6 other law or laws, to pay the cost of maintenance, operation, and depreciation of the public service
7 properties and principal of and interest on all bonds issued, other obligations incurred under the
8 provisions of this article, and all reserve or other payments provided for in the proceedings which
9 authorized the issuance of any bonds under this article. The schedule of the rates, fees, and
10 charges may be based upon:

11 (A) The consumption of water or gas on premises connected with the facilities, taking into
12 consideration domestic, commercial, industrial, and public use of water and gas;

13 (B) The number and kind of fixtures connected with the facilities located on the various
14 premises;

15 (C) The number of persons served by the facilities;

16 (D) Any combination of paragraphs (A), (B), and (C) of this subdivision; or

17 (E) Any other basis or classification which the board may determine to be fair and
18 reasonable, taking into consideration the location of the premises served and the nature and
19 extent of the services and facilities furnished. However, no rates, fees, or charges for stormwater
20 services may be assessed against highways, road, and drainage easements or stormwater
21 facilities constructed, owned, or operated by the West Virginia Division of Highways.

22 (2) The board of a public service district with at least 4,500 customers and annual
23 combined gross revenue of \$3 million providing water or sewer service separately or in
24 combination may make, enact, and enforce all needful rules in connection with the enactment or
25 amendment of rates, fees, and charges of the district. At a minimum, these rules shall provide for:

26 (A) Adequate prior public notice of the contemplated rates, fees, and charges by causing
27 a notice of intent to effect such a change to be provided to the customers of the district for the
28 month immediately preceding the month in which the contemplated change is to be considered

29 at a hearing by the board. The notice shall include a statement that a change in rates, fees, and
30 charges is being considered, the time, date, and location of the hearing of the board at which the
31 change will be considered, and that the proposed rates, fees, and charges are on file at the office
32 of the district for review during regular business hours. The notice shall be printed on, or mailed
33 with, the monthly billing statement, or provided in a separate mailing.

34 (B) Adequate prior public notice of the contemplated rates, fees, and charges by causing
35 to be published, after the first reading and approval of a resolution of the board considering the
36 revised rates, fees, and charges but not less than one week prior to the public hearing of the
37 board on the resolution, as a Class I legal advertisement, of the proposed action, in compliance
38 with the provisions of §59-3-1 *et seq.* of this code. The publication area for publication shall be all
39 territory served by the district. If the district provides service in more than one county, publication
40 shall be made in a newspaper of general circulation in each county that the district provides
41 service.

42 (C) The public notice of the proposed action shall summarize the current rates, fees, and
43 charges and the proposed changes to said rates, fees, and charges; the date, time, and place of
44 the public hearing on the resolution approving the revised rates, fees, and charges, and the place
45 or places within the district where the proposed resolution approving the revised rates, fees, and
46 charges may be inspected by the public. A reasonable number of copies of the proposed
47 resolution shall be kept at the place or places and be made available for public inspection. The
48 notice shall also advise that interested parties may appear at the public hearing before the board
49 and be heard with respect to the proposed revised rates, fees, and charges.

50 (D) The resolution proposing the revised rates, fees, and charges shall be read at two
51 meetings of the board with at least two weeks intervening between each meeting. The public
52 hearing may be conducted by the board prior to, or at, the meeting at which the resolution is
53 considered for adoption on the second reading.

54 (E) Rates, fees, and charges approved by resolution of the board shall be forwarded in
55 writing to the county commission with the authority to appoint the members of the board. The
56 county commission shall publish notice of the proposed revised rates, fees, and charges by a
57 Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.
58 Within 45 days of receipt of the proposed rates, fees, and charges, the county commission shall
59 take action to approve, modify, or reject the proposed rates, fees, and charges, in its sole
60 discretion. If, after 45 days, the county commission has not taken final action to approve, modify,
61 or reject the proposed rates, fees, and charges, as presented to the county commission, the
62 proposed rates, fees, and charges shall be effective with no further action by the board or county
63 commission. In any event, this 45-day period shall be mandatory unless extended by the official
64 action of both the board proposing the rates, fees, and charges, and the appointing county
65 commission.

66 (F) Enactment of the proposed or modified rates, fees, and charges shall follow an
67 affirmative vote by the county commission and shall be effective no sooner than 45 days following
68 action. The 45-day waiting period may be waived by public vote of the county commission only if
69 the commission finds and declares the district to be in financial distress such that the 45-day
70 waiting period would be detrimental to the ability of the district to deliver continued and compliant
71 public services.

72 (G) The public service district, or a customer aggrieved by the changed rates or charges
73 who presents to the circuit court a petition signed by at least 750 customers or 25 percent of the
74 customers served by the public service district, whichever is fewer, when dissatisfied by the
75 approval, modification, or rejection by the county commission of the proposed rates, fees, and
76 charges under the provisions of this subdivision may file a complaint regarding the rates, fees,
77 and charges resulting from the action of, or failure to act by, the county commission in the circuit
78 court of the county in which the county commission sits: *Provided*, That any complaint or petition
79 filed hereunder shall be filed within 30 days of the county commission's final action approving,

80 modifying, or rejecting the rates, fees, and charges, or the expiration of the 45-day period from
81 the receipt by the county commission, in writing, of the rates, fees, and charges approved by
82 resolution of the board, without final action by the county commission to approve, modify, or reject
83 the rates, fees, and charges, and the circuit court shall resolve the complaint: *Provided, however,*
84 That the rates, fees, and charges so fixed by the county commission, or those adopted by the
85 district upon which the county commission failed to act, shall remain in full force and effect, until
86 set aside, altered, or amended by the circuit court in an order to be followed in the future.

87 (3) Where water, sewer, stormwater, or gas services, or any combination thereof, are all
88 furnished to any premises, the schedule of charges may be billed as a single amount for the
89 aggregate of the charges. The board shall require all users of services and facilities furnished by
90 the district to designate on every application for service whether the applicant is a tenant or an
91 owner of the premises to be served. If the applicant is a tenant, he or she shall state the name
92 and address of the owner or owners of the premises to be served by the district. Notwithstanding
93 the provisions of §24-3-8 of this code to the contrary, all new applicants for service shall deposit
94 the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific
95 customer class or \$50 with the district to secure the payment of service rates, fees, and charges
96 in the event they become delinquent as provided in this section. If a district provides both water
97 and sewer service, all new applicants for service shall deposit the greater of a sum equal to two
98 twelfths of the average annual usage for water service or \$50 and the greater of a sum equal to
99 two twelfths of the average annual usage for wastewater service of the applicant's specific
100 customer class or \$50. In any case where a deposit is forfeited to pay service rates, fees, and
101 charges which were delinquent at the time of disconnection or termination of service, no
102 reconnection or reinstatement of service may be made by the district until another deposit equal
103 to the greater of a sum equal to two twelfths of the average usage for the applicant's specific
104 customer class or \$50 has been remitted to the district. After 12 months of prompt payment
105 history, the district shall return the deposit to the customer or credit the customer's account at a

106 rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a
107 tenant, the district is not required to return the deposit until the time the tenant discontinues service
108 with the district. Whenever any rates, fees, rentals, or charges for services or facilities furnished
109 remain unpaid for a period of 20 days after the same become due and payable, the user of the
110 services and facilities provided is delinquent and the user is liable at law until all rates, fees, and
111 charges are fully paid. The board may, under reasonable rules promulgated by the Public Service
112 Commission, shut off and discontinue water or gas services to all delinquent users of either water
113 or gas facilities, or both, 10 days after the water or gas services become delinquent: *Provided*,
114 *however*, That nothing contained within the rules of the Public Service Commission may be
115 considered to require any agents or employees of the board to accept payment at the customer's
116 premises in lieu of discontinuing service for a delinquent bill: *Provided further*, That the water
117 service for a user may not be shut off or discontinued for the nonpayment of a stormwater fee
118 except as provided in subsections (i) and (j) of this section.

119 (b) If any publicly or privately owned utility, city, incorporated town, other municipal
120 corporation or other public service district included within the district owns and operates separate
121 water facilities, sewer facilities, or stormwater facilities, and the district owns and operates another
122 kind of facility, either water or sewer, or both, as the case may be, then the district and the publicly
123 or privately owned utility, city, incorporated town or other municipal corporation, or other public
124 service district shall covenant and contract with each other to shut off and discontinue the
125 supplying of water service for the nonpayment of sewer service fees and charges: *Provided*, That
126 any contracts entered into by a public service district pursuant to this section shall be submitted
127 to the Public Service Commission for approval. Any public service district which provides water
128 and sewer service, water and stormwater service or water, sewer, and stormwater service has
129 the right to terminate water service for delinquency in payment of water or sewer bills. Where one
130 public service district is providing sewer service and another public service district or a
131 municipality included within the boundaries of the sewer or stormwater district is providing water

132 service and the district providing sewer or stormwater service experiences a delinquency in
133 payment, the district or the municipality included within the boundaries of the sewer or stormwater
134 district that is providing water service, upon the request of the district providing sewer or
135 stormwater service to the delinquent account, shall terminate its water service to the customer
136 having the delinquent sewer account: *Provided, however,* That any termination of water service
137 must comply with all rules and orders of the Public Service Commission: *Provided further,* That
138 nothing contained within the rules of the Public Service Commission shall be deemed to require
139 any agents or employees of the public service districts to accept payment at the customer's
140 premises in lieu of discontinuing service for a delinquent bill: *And provided further,* That the water
141 service for a user may not be shut off or discontinued for the nonpayment of a stormwater fee
142 except as provided in subsections (i) and (j) of this section.

143 (c) Any district furnishing sewer facilities within the district may require or may, by petition
144 to the circuit court of the county in which the property is located, compel or may require the Bureau
145 for Public Health to compel all owners, tenants, or occupants of any houses, dwellings, and
146 buildings located near any sewer facilities where sewage will flow by gravity or be transported by
147 other methods approved by the Bureau for Public Health, including, but not limited to, vacuum
148 and pressure systems, approved under the provisions of §16-1-9 of this code, from the houses,
149 dwellings, or buildings into the sewer facilities, to connect with and use the sewer facilities and to
150 cease the use of all other means for the collection, treatment, and disposal of sewage and waste
151 matters from the houses, dwellings, and buildings where there is gravity flow or transportation by
152 any other methods approved by the Bureau for Public Health, including, but not limited to, vacuum
153 and pressure systems, approved under the provisions of §16-1-9 of this code and the houses,
154 dwellings, and buildings can be adequately served by the sewer facilities of the district and it is
155 declared that the mandatory use of the sewer facilities provided for in this subsection is necessary
156 and essential for the health and welfare of the inhabitants and residents of the districts and of the
157 state. If the public service district requires the property owner to connect with the sewer facilities

158 even when sewage from dwellings may not flow to the main line by gravity and the property owner
159 incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the
160 main sewer line, the public service district board shall authorize the district to pay all reasonable
161 costs for the changes in the exterior plumbing, including, but not limited to, installation, operation,
162 maintenance, and purchase of a pump or any other method approved by the Bureau for Public
163 Health. Maintenance and operation costs for the extra installation should be reflected in the users
164 charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits
165 of the petition by summary hearing to be held not later than 30 days after service of petition to the
166 appropriate owners, tenants, or occupants.

167 (d) Whenever any district has made available sewer facilities to any owner, tenant, or
168 occupant of any house, dwelling, or building located near the sewer facility and the engineer for
169 the district has certified that the sewer facilities are available to and are adequate to serve the
170 owner, tenant, or occupant and sewage will flow by gravity or be transported by other methods
171 approved by the Bureau for Public Health from the house, dwelling, or building into the sewer
172 facilities, the district may charge, and the owner, tenant, or occupant shall pay, the rates and
173 charges for services established under this article only after 30 days' notice of the availability of
174 the facilities has been received by the owner, tenant, or occupant. Rates and charges for sewage
175 services shall be based upon actual water consumption or the average monthly water
176 consumption based upon the owner's, tenant's, or occupant's specific customer class.

177 (e) The owner, tenant, or occupant of any real property may be determined and declared
178 to be served by a stormwater system only after each of the following conditions is met: (1) The
179 district has been designated by the Environmental Protection Agency as an entity to serve a West
180 Virginia Separate Storm Sewer System community, as defined in 40 C. F. R. § 122.26; (2) the
181 district's authority has been properly expanded to operate and maintain a stormwater system; (3)
182 the district has made available a stormwater system where stormwater from the real property
183 affects or drains into the stormwater system; and (4) the real property is located in the Municipal

184 Separate Storm Sewer System's designated service area. It is further hereby found, determined,
185 and declared that the mandatory use of the stormwater system is necessary and essential for the
186 health and welfare of the inhabitants and residents of the district and of the state. The district may
187 charge and the owner, tenant, or occupant shall pay the rates, fees, and charges for stormwater
188 services established under this article only after 30 days' notice of the availability of the
189 stormwater system has been received by the owner. An entity providing stormwater service shall
190 provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate,
191 that portion of the fee to be assessed to the tenant.

192 (f) All delinquent fees, rates, and charges of the district for either water facilities, sewer
193 facilities, gas facilities, or stormwater systems or stormwater management programs are liens on
194 the premises served of equal dignity, rank, and priority with the lien on the premises of state,
195 county, school, and municipal taxes. Nothing contained within the rules of the Public Service
196 Commission may require agents or employees of the public service districts to accept payment
197 at the customer's premises in lieu of discontinuing service for a delinquent bill. In addition to the
198 other remedies provided in this section, public service districts are granted a deferral of filing fees
199 or other fees and costs incidental to the bringing and maintenance of an action in magistrate court
200 for the collection of delinquent water, sewer, stormwater, or gas bills. If the district collects the
201 delinquent account, plus reasonable costs, from its customer or other responsible party, the
202 district shall pay to the magistrate the normal filing fee and reasonable costs which were
203 previously deferred. In addition, each public service district may exchange with other public
204 service districts a list of delinquent accounts: *Provided*, That an owner of real property may not
205 be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any
206 lien attach to real property for the reason of delinquent rates or charges for services or facilities
207 of a tenant of the real property unless the owner has contracted directly with the public service
208 district to purchase the services or facilities.

209 (g) Anything in this section to the contrary notwithstanding, any establishment, as defined
210 in §22-11-3 of this code, now or hereafter operating its own sewage disposal system pursuant to
211 a permit issued by the Department of Environmental Protection, as prescribed by §22-11-11 of
212 this code, is exempt from the provisions of this section.

213 (h) Notwithstanding any code provision to the contrary, a public service district may accept
214 payment for all fees and charges due, in the form of a payment by a credit or check card
215 transaction or a direct withdrawal from a bank account. The public service district may set a fee
216 to be added to each transaction equal to the charge paid by the public service district for use of
217 the credit or check card or direct withdrawal by the payor. The amount of the fee shall be disclosed
218 to the payor prior to the transaction and no other fees for the use of a credit or check card or direct
219 withdrawal may be imposed upon the payor and the whole of the charge or convenience fee shall
220 be borne by the payor: *Provided*, That to the extent a public service district desires to accept
221 payments in the forms described in this subsection and does not have access to the equipment
222 or receive the services necessary to do so, the public service district shall first obtain three bids
223 for services and equipment necessary to effect the forms of transactions described in this
224 subsection and use the lowest qualified bid received. Acceptance of a credit or check card or
225 direct withdrawal as a form of payment shall comport with the rules and requirements set forth by
226 the credit or check card provider or banking institution.

227 (i) The board collecting the rates, fees, or charges may shut off and discontinue water
228 services to users with delinquent stormwater fees, provided that:

229 (1) The water service and stormwater fee are in the name of the same user;

230 (2) The rates, fees, or charges incurred by the user are at least 90 days past due;

231 (3) The provider has given the user written notice of termination of water service for
232 nonpayment. Such notice must be given to the user at least 10 days before the termination of
233 service and must notify the user of the user's right to enter into a deferred payment plan;

234 (4) The provider has attempted to make personal contact with the user at least twice in
235 the 24 hours immediately before the termination of the service. If the provider makes personal
236 contact with the user, the provider must inform the user of the user's right to enter into a deferred
237 payment plan.

238 (5) The water service for a user who has entered into a deferred payment plan under this
239 subsection may not be shut off or discontinued as long as the user is in conformance with the
240 agreed-to payment plan. In the event the user falls out of compliance with the deferred payment
241 plan, no sooner than five days after the missed payment, the provider may terminate service:
242 *Provided*, That the provider must make one attempt to make personal contact with the user in the
243 24 hours immediately before the termination of the service.

244 (j) All rates, fees, or charges, if not paid when due, shall constitute a lien upon the
245 premises served by the works. If any service rate, fee, or charge is not paid within 20 days after
246 it is due, the amount thereof, together with a penalty of 10 percent and a reasonable attorney's
247 fee, may be recovered by the board in a civil action in the name of the public service district. The
248 lien may be foreclosed against the lot, parcel of land, or building in accordance with the laws
249 relating thereto. Where water, stormwater, and sewer services are furnished by any public service
250 district to any premises, the schedule of charges may be billed as a single amount or individually
251 itemized and billed for the aggregate thereof.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 3. DUTIES AND PRIVILEGES OF PUBLIC UTILITIES SUBJECT TO REGULATIONS OF COMMISSION.

§24-3-10. Termination of water service for delinquent sewer or stormwater bills.

1 (a) In the event that any publicly or privately owned utility, city, incorporated town,
2 municipal corporation, or public service district owns and operates either water facilities or sewer
3 facilities, and a privately owned public utility or a public utility that is owned and operated by a

4 homeowners' association owns and operates the other kind of facilities, either water or sewer,
5 then the privately owned public utility or the homeowners' association may contract with the
6 publicly or privately owned utility, city, incorporated town, or public service district which provides
7 the other services to shutoff and discontinue the supplying of water service for the nonpayment
8 of sewer service fees and charges.

9 (b) Any contracts entered into by a privately owned public utility or by a public utility that
10 is owned and operated by a homeowners' association pursuant to this section must be submitted
11 to the Public Service Commission for approval.

12 (c) Any privately owned public utility or any public utility that is owned and operated by a
13 homeowners' association which provides water and sewer service to its customers may terminate
14 water service for delinquency in payment of either water or sewer bills.

15 (d) Where a privately owned public utility or a public utility that is owned and operated by
16 a homeowners' association is providing sewer service and another utility is providing water
17 service, and the privately owned public utility or the homeowners' association providing sewer
18 service experiences a delinquency in payment, the utility providing water service, upon the
19 request of the homeowners' association or the privately owned public utility providing sewer
20 service to the delinquent account, shall terminate its water service to the customer having the
21 delinquent sewer account.

22 (e) Any termination of water service must comply with all rules and orders of the Public
23 Service Commission. Nothing contained within the rules of the Public Service Commission shall
24 be deemed to require any agents or employees of the water or sewer utility to accept payment at
25 the customer's premises in lieu of discontinuing water service for a delinquent water or sewer bill.

26 (f) A publicly or privately owned utility, city, incorporated town, municipal corporation, or
27 public service district that owns or operates water facilities, or a public utility that is owned and
28 operated by a homeowners' association that owns or operates water facilities may not discontinue
29 or shut off water service to its customers for delinquency in payment of stormwater fees or

30 charges, nor may it contract with any other utility, public or private, to which it provides water
31 service to terminate water service to customers of the other utility for delinquency in the payment
32 of stormwater services, fees, and charges except as provided in subsections (g) and (h) of this
33 section.

34 (g) The governing body, board, or association collecting the rates, fees, or charges may
35 shut off and discontinue water services to users with delinquent stormwater fees, provided that:

36 (1) The water service and stormwater fee are in the name of the same user;

37 (2) The rates, fees, or charges incurred by the user are 90 days past due;

38 (3) The provider has given the user written notice of termination of water service for
39 nonpayment. Such notice must be given to the user at least 10 days before the termination of
40 service and must notify the user of the user's right to enter into a deferred payment plan;

41 (4) The provider has attempted to make personal contact with the user at least two times
42 in the 24 hours immediately before the termination of the service. If the provider makes personal
43 contact with the user, the provider must inform the user of the user's right to enter into a deferred
44 payment plan.

45 (5) The water service for a user who has entered into a deferred payment plan under this
46 subsection may not be shut off or discontinued as long as the user is in conformance with the
47 agreed-to payment plan. In the event the user falls out of compliance with the deferred payment
48 plan, no sooner than five days after the missed payment, the provider may terminate service:
49 *Provided*, That the provider must make one attempt to make personal contact with the user in the
50 24 hours immediately before the termination of the service.

51 (h) All rates, fees, or charges, if not paid when due, shall constitute a lien upon the
52 premises served by the works. If any service rate, fee, or charge is not paid within 20 days after
53 it is due, the amount thereof, together with a penalty of 10 percent and a reasonable attorney's
54 fee, may be recovered by the provider in a civil action in the name of the provider. The lien may
55 be foreclosed against the lot, parcel of land, or building in accordance with the laws relating

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56 thereto. Where water, stormwater, and sewer services are furnished by any provider to any
57 premises, the schedule of charges may be billed as a single amount or individually itemized and
58 billed for the aggregate thereof.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

Joe Linn
.....
Clerk of the Senate

Steve Harris
.....
Clerk of the House of Delegates

FILED
2024 MAR 27 A 11:02
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the Senate.

In effect 90 days from passage.

C. P. Bell
.....
President of the Senate

Ben Harshbarger
.....
Speaker of the House of Delegates

The within is *approved* this the *27th*
Day of *March*, 2024.

James Justice
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 19 2024

Time 3:20pm