

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]

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

32 customer is a tenant, the governing body is not required to return the deposit until the time the
33 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 for
36 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, or
43 charges, shall be given by publication as a Class I legal advertisement in compliance with §59-3-1
44 *et seq.* of this code and the publication area for the publication shall be the municipality. The first
45 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 be
49 kept on file in the office of the board having charge of the operation of the works, and also in the
50 office of the clerk of the municipality, and shall be open to inspection by all parties interested. The
51 rates, fees, or charges established for any class of users or property served shall be extended to
52 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.

58

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

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

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

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

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

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

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

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

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

92 (5) The water service for a user who has entered into a deferred payment plan under this
93 subsection may not be shut off or discontinued as long as the user is in conformance with the
94 agreed to payment plan. In the event the user falls out of compliance with the deferred payment
95 plan, no sooner than five days after the missed payment, the provider may terminate service:
96 *Provided*, That the provider must make one attempt to make personal contact with the user in the
97 24 hours immediately before the termination of the service.

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

27 notice of intent to effect such a change to be provided to the customers of the district for the month
28 immediately preceding the month in which the contemplated change is to be considered at a
29 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 to
35 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 board
37 on the resolution, as a Class I legal advertisement, of the proposed action, in compliance with the
38 provisions of §59-3-1 *et seq.* of this code. The publication area for publication shall be all territory
39 served by the district. If the district provides service in more than one county, publication shall be
40 made in a newspaper of general circulation in each county that the district provides service.

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

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

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

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

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

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

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

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

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

131 the district providing sewer or stormwater service experiences a delinquency in payment, the
132 district or the municipality included within the boundaries of the sewer or stormwater district that is
133 providing water service, upon the request of the district providing sewer or stormwater service to
134 the delinquent account, shall terminate its water service to the customer having the delinquent
135 sewer account: *Provided, however,* That any termination of water service must comply with all
136 rules and orders of the Public Service Commission: *Provided further,* That nothing contained
137 within the rules of the Public Service Commission shall be deemed to require any agents or
138 employees of the public service districts to accept payment at the customer's premises in lieu of
139 discontinuing service for a delinquent bill: *And provided further,* That the water service for a user
140 may not be shut off or discontinued for the nonpayment of a stormwater fee except as provided in
141 subsections (i) and (j) of this section.(c) Any district furnishing sewer facilities within the district
142 may require or may, by petition to the circuit court of the county in which the property is located,
143 compel or may require the Bureau for Public Health to compel all owners, tenants, or occupants of
144 any houses, dwellings, and buildings located near any sewer facilities where sewage will flow by
145 gravity or be transported by other methods approved by the Bureau for Public Health, including,
146 but not limited to, vacuum and pressure systems, approved under the provisions of §16-1-9 of this
147 code, from the houses, dwellings, or buildings into the sewer facilities, to connect with and use the
148 sewer facilities and to cease the use of all other means for the collection, treatment, and disposal
149 of sewage and waste matters from the houses, dwellings, and buildings where there is gravity flow
150 or transportation by any other methods approved by the Bureau for Public Health, including, but
151 not limited to, vacuum and pressure systems, approved under the provisions of §16-1-9 of this
152 code and the houses, dwellings, and buildings can be adequately served by the sewer facilities of
153 the district and it is declared that the mandatory use of the sewer facilities provided for in this
154 subsection is necessary and essential for the health and welfare of the inhabitants and residents of
155 the districts and of the state. If the public service district requires the property owner to connect
156 with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity

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

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

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

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

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

207 (g) Anything in this section to the contrary notwithstanding, any establishment, as defined
208 in §22-11-3 of this code, now or hereafter operating its own sewage disposal system pursuant to a

209 permit issued by the Department of Environmental Protection, as prescribed by §22-11-11 of this
210 code, is exempt from the provisions of this section.

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

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

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

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

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

232 (4) The provider has attempted to make personal contact with the user at least twice in the
233 24 hours immediately before the termination of the service. If the provider makes personal contact

234 with the user, the provider must inform the user of the user's right to enter into a deferred payment
235 plan.

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

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

6 privately owned utility, city, incorporated town, or public service district which provides the other
7 services to shutoff and discontinue the supplying of water service for the nonpayment of sewer
8 service fees and charges.

9 (b) Any contracts entered into by a privately owned public utility or by a public utility that is
10 owned and operated by a homeowners' association pursuant to this section must be submitted to
11 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 a
16 homeowners' association is providing sewer service and another utility is providing water service,
17 and the privately owned public utility or the homeowners' association providing sewer service
18 experiences a delinquency in payment, the utility providing water service, upon the request of the
19 homeowners' association or the privately owned public utility providing sewer service to the
20 delinquent account, shall terminate its water service to the customer having the delinquent sewer
21 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 in
42 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 it is
53 due, the amount thereof, together with a penalty of 10 percent and a reasonable attorney's fee,
54 may be recovered by the provider in a civil action in the name of the provider. The lien may be
55 foreclosed against the lot, parcel of land, or building in accordance with the laws relating thereto.
56 Where water, stormwater, and sewer services are furnished by any provider to any premises, the

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57 schedule of charges may be billed as a single amount or individually itemized and billed for the
58 aggregate thereof.