

H. B. 2859

(By Delegates, Frazier, Poore, Manypenny,
Barker, Hunt, Caputo, Pino, Longstreth,
Wells and Moore)

[Introduced January 26, 2011; referred to the
Committee on Government Organization then the Judiciary.]

A BILL to amend and reenact §24-1-3 of the Code of West Virginia,
1931, as amended, relating to the Public Service Commission;
providing for election of commissioners; compensation; term of
office; prohibiting contributions for election from utilities
regulated by the Public Service Commission; and requiring the
Public Service Commission to establish procedures for the
removal of any of its commissioners for inactivity, neglect of
duty or malfeasance.

Be it enacted by the Legislature of West Virginia:

That §24-1-3 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 1. GENERAL PROVISIONS.

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

(a) The Public Service Commission of West Virginia is
continued and directed as provided by this chapter, chapter twenty-
four-a, chapter twenty-four-b and chapter twenty-four-d of this
code. ~~After having conducted a performance audit through its joint
committee on government operations, pursuant to section nine,~~

1 ~~article ten, chapter four of this code, the Legislature hereby~~
2 ~~finds and declares that the Public Service Commission should be~~
3 ~~continued and reestablished. Accordingly, notwithstanding the~~
4 ~~provisions of section five, article ten, chapter four of this code,~~
5 ~~the Public Service Commission shall continue to exist until July 1,~~
6 ~~two thousand three.~~ The Public Service Commission may sue and be
7 sued by that name. The Public Service Commission shall consist of
8 three members who shall be ~~appointed by the Governor, with the~~
9 ~~advice and consent of the Senate~~ elected by the voters of this
10 state in a manner provided in this section. The commissioners
11 shall be citizens and residents of this state and ~~at least one of~~
12 ~~them shall be duly licensed to practice law in West Virginia, with~~
13 ~~not less than ten years' actual work experience in the legal~~
14 ~~profession as a member of a State Bar.~~ No more than two of the
15 commissioners shall be members of the same political party each
16 commissioner shall, before entering upon the duties of his or her
17 office, take and subscribe to the oath provided by section five,
18 Article IV of the Constitution of this state. The oath shall be
19 filed in the Office of the Secretary of State. ~~The Governor shall~~
20 ~~designate one of the commissioners to serve as chairman at the~~
21 ~~Governor's will and pleasure.~~ The chairman who shall be elected by
22 popular vote shall be the chief administrative officer of the
23 commission. The chairman or any other commissioner may be removed
24 from office for conviction of a felony or a misdemeanor involving
25 moral turpitude, malfeasance in the office or for a willful

1 violation of this chapter or any rule, regulation or order provided
2 in this chapter. Removal of a member shall be conducted in the
3 manner provided in section three, article six, chapter six of this
4 code. ~~The Governor may remove any commissioner only for~~
5 ~~incompetency, neglect of duty, gross immorality, malfeasance in~~
6 ~~office or violation of subsection (c) of this section.~~

7 (b) The unexpired terms of members of the Public Service
8 Commission at the time this subsection becomes effective are
9 continued until the end of their respective terms or until the
10 elected commissioners take office, whichever first occurs. There
11 shall be three individual, partisan offices for commissioners, with
12 one of the offices being for the chairman of the commission. Upon
13 ~~expiration of the terms, appointments are for terms of six years,~~
14 ~~except that an appointment to fill a vacancy is for the unexpired~~
15 ~~term only. The commissioners whose terms are terminated by the~~
16 ~~provisions of this subsection are eligible for reappointment. All~~
17 three commissioners shall be elected at the general election to be
18 held in the year 2012 for terms of four years, with one candidate
19 from each major political party being selected for each office at
20 the primary election in the year 2012. The commissioners whose
21 terms are terminated by the provisions of this subsection are
22 eligible for election. A person seeking election to the Public
23 Service Commission, or reelection, may not accept contributions
24 from the officers, employees or agents of any public utility
25 subject to the provisions of this chapter.

1 (c) ~~No~~ A person while in the employ of, or holding any
2 official relation to, any public utility subject to the provisions
3 of this chapter or holding any stocks or bonds of a public utility
4 subject to the provisions of this chapter or who is pecuniarily
5 interested in a public utility subject to the provisions of this
6 chapter may not be elected to serve as a member of the commission
7 or as an employee of the commission. Nor may any commissioner be
8 a candidate for or hold public office or be a member of any
9 political committee while acting as a commissioner; nor may any
10 commissioner or employee of the commission receive any pass, free
11 transportation or other thing of value, either directly or
12 indirectly, from any public utility or motor carrier subject to the
13 provisions of this chapter. ~~In case~~ If any of the commissioners
14 becomes a candidate for any other public office, ~~or a member of any~~
15 ~~political committee, the Governor shall remove him or her from~~
16 ~~office and shall appoint a new commissioner to fill the vacancy~~
17 ~~created~~ a vacancy shall be determined to exist in that
18 commissioner's office.

19 (d) The salaries of members of the Public Service Commission
20 and the manner in which they are paid established by the prior
21 enactment of this section are continued. Effective July 1, 2001,
22 the annual salary of each commissioner provided in section two-a,
23 article seven, chapter six of this code shall be paid in monthly
24 installments from the special funds in the percentages that follow:

25 (1) From the Public Service Commission Fund collected under

1 the provisions of section six, article three of this chapter,
2 eighty percent;

3 (2) From the Public Service Commission Motor Carrier Fund
4 collected under the provisions of section six, article six, chapter
5 twenty-four-a of this code, seventeen percent; and

6 (3) From the Public Service Commission Gas Pipeline Safety
7 Fund collected under the provisions of section three, article five,
8 chapter twenty-four-b of this code, three percent.

9 In addition to the salary provided for all commissioners in
10 section two-a, article seven, chapter six of this code, the
11 chairman of the commission shall receive \$5,000 per annum to be
12 paid in monthly installments from the Public Service Commission
13 Fund collected under the provisions of section six, article three
14 of this chapter.

15 (e) The Public Service Commission shall establish procedures
16 for the removal of any of its commissioners for inactivity, neglect
17 of duty or malfeasance. The procedures must contain provisions
18 requiring that the person be provided with a written statement of
19 the reasons for removal, an opportunity to be heard on the matter,
20 and a final vote on the matter forthwith by the other commissioners
21 after the hearing has concluded.

NOTE: The purpose of this bill is to provide for the election of Public Service Commissioners for terms of four years. The bill requires the Public Service Commission to establish procedures for the removal of any of its commissioners for inactivity, neglect of duty or malfeasance.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.