

H. B. 2869

(By Delegates Morgan, Sumner, Brown, Poore,
Frazier, Nelson, Snuffer, O'Neal and Skaff)
[Introduced January 26, 2011; referred to the
Committee on Government Organization then Finance.]

A BILL to amend and reenact §11-13-3f of the Code of West Virginia,
1931, as amended; to amend and reenact §11-13F-1 of said code;
to amend and reenact §11-24-11 of said code; to amend said
code by adding thereto a new section designated §24-2a-5; and
to amend and reenact §24-3-2 of said code; all relating to
reduced rates for low-income residential customers of
privately owned water utilities.

Be it enacted by the Legislature of West Virginia:

That §11-13-3f of the Code of West Virginia, 1931, as amended,
be amended and reenacted; that §11-13F-1 of said code be amended
and reenacted; that §11-24-11 of said code be amended and
reenacted; that §24-2A-5 of said code as amended, be amended; and
that §24-3-2 of said code be amended and reenacted, all to read as
follows:

CHAPTER 11. TAXATION.

ARTICLE 13. BUSINESS AND OCCUPATION TAX.

§11-13-3f. Tax credit for reducing electric and natural gas

1 **utility rates for low-income residential customers;**
 2 **regulations.**

3 (a) There shall be allowed as a credit against the tax imposed
 4 by this article, the cost of providing electric, ~~or~~ natural gas or
 5 water utility service, or ~~both~~ any combination of electric, natural
 6 gas or water utility services, at reduced rates to qualified low-
 7 income residential customers which has not been reimbursed by any
 8 other means.

9 (b) The Tax Commissioner may prescribe such regulations as may
 10 be necessary to carry out the purposes of this section, of article
 11 thirteen-f of this chapter and of section eleven, article twenty-
 12 four of this chapter.

13 **ARTICLE 13F. BUSINESS AND OCCUPATION TAX CREDIT FOR REDUCING**
 14 **ELECTRIC AND NATURAL GAS UTILITY RATES FOR LOW-**
 15 **INCOME RESIDENTIAL CUSTOMERS.**

16 **§11-13F-1. Legislative purpose.**

17 In order to reimburse public utilities for the revenue
 18 deficiencies which they incur in providing special reduced
 19 electric, ~~and~~ natural gas and water utility rates to low-income
 20 residential customers in accordance with the provisions of article
 21 two-a of chapter twenty-four, there is hereby provided a business
 22 and occupation tax credit for reducing electric, ~~and~~ natural gas,
 23 and water utility rates for low-income residential customers.

24 **ARTICLE 24. CORPORATION NET INCOME TAX.**

25 **§11-24-11. Credit for reducing electric and natural gas utility**
 26 **rates for low-income residential customers.**

1 (a) *General.* -- A credit shall be allowed against the primary
2 tax liability of an eligible taxpayer under this article for the
3 cost of providing electric, ~~or~~ natural gas or water utility
4 service, or ~~both~~ any combination of electric, natural gas or water
5 utility services, at special reduced rates to qualified low-income
6 residential customers which has not been reimbursed by any other
7 means.

8 (b) *Definitions.* -- For purposes of this section, the term:

9 (1) "Eligible taxpayer" means a utility which has provided
10 electric, ~~or~~ natural or water utility gas service, or ~~both~~ any
11 combination of electric, natural gas or water utility services, to
12 qualified low-income residential customers at special reduced
13 rates.

14 (2) "Cost of providing electric, ~~or~~ natural gas or water
15 utility service, or ~~both~~ any combination of electric, natural gas
16 or water utility services, at special reduced rates" means the
17 amount certified by the Public Service Commission under the
18 provisions of section three, article two-a, chapter twenty-four of
19 this code, as the revenue deficiency incurred by a public utility
20 in providing special reduced rates for electric, ~~or~~ natural gas or
21 water utility service, or ~~both~~ any combination of electric, natural
22 gas or water utility services, as required by section one, article
23 two-a, chapter twenty-four of this code.

24 (3) "Special reduced rates" means the rates ordered by the
25 Public Service Commission under the authority of section one and
26 five, article two-a, chapter twenty-four of this code.

1 (4) "Qualified low-income residential customers" means those
2 utility customers eligible to receive electric, ~~or~~ natural gas or
3 water utility service, or ~~both~~ any combination of electric, natural
4 gas or water utility services, under special reduced rates.

5 (c) *Amount of credit.* -- The amount of the credit available
6 to any eligible taxpayer shall be equal to its cost of providing
7 electric, ~~or~~ natural gas or water utility service, or ~~both~~ any
8 combination of electric, natural gas or water utility services, at
9 special reduced rates to qualified residential customers, less any
10 reimbursement of said cost which the taxpayer has received through
11 any other means.

12 (d) *When credit may be taken.* -- An eligible taxpayer may
13 claim a credit allowed under this section on its annual return for
14 the taxable year in which it receives certification of the amount
15 of its revenue deficiency from the Public Service Commission.

16 Notwithstanding the provisions of section sixteen of this
17 article to the contrary, no credit may be claimed on any
18 declaration of estimated tax filed for such taxable year prior to
19 July 1, of such taxable year. Such credit may be claimed on a
20 declaration or amended declaration filed on or after that date but
21 only if the amount certified will not be recovered by application
22 of the business and occupation tax credit allowed by section three-
23 f, article thirteen of this chapter. In such event, only that
24 amount not recovered by that credit may be considered or taken as
25 a credit when estimating the tax due under this article. In no
26 event may the eligible taxpayer recover more than one hundred

1 percent of its revenue deficiency as certified by the Public
2 Service Commission.

3 (e) *Application of credit.* -- The credit allowable by this
4 section for a taxable year is not subject to the fifty percent
5 limitation specified in section nine of this article.

6 Notwithstanding the provisions of section four, article thirteen-f
7 of this chapter, any unused credit may be carried over and applied
8 against business and occupation taxes in the manner specified in
9 section five, article thirteen-f of this chapter.

10 (f) *Copy of certification order.* -- A copy of a certification
11 order from the Public Service Commission shall be attached to any
12 annual return under this article on which a credit allowed by this
13 section is taken.

14 **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

15 **ARTICLE 2A. REDUCED RATES FOR LOW-INCOME RESIDENTIAL CUSTOMERS OF**
16 **ELECTRICITY AND GAS.**

17 **§24-2A-5. Special rates for water utility customers receiving**
18 **Social Security Supplemental Security Income (SSI),**
19 **Temporary Assistance for Needy Families (TANF),**
20 **Temporary Assistance for Needy Families-Unemployed**
21 **Parent Program (TANF-UP) or food stamps.**

22 The commission may authorize a privately owned water utility
23 to voluntarily implement a rate design featuring reduced rates and
24 charges for service for residential utility customers receiving:
25 (a) Social Security Supplemental Security Income (SSI); (b)
26 Temporary Assistance for Needy Families (TANF); (c) Temporary

1 Assistance for Needy Families-Unemployed Parent Program (TANF-UP)
2 or; (d) food stamps, if such food stamp recipients are sixty years
3 of age or older. The special reduced rate offered by each water
4 utility to its eligible customers shall be a percentage less, which
5 shall be approved by the commission, than the rate which would be
6 applicable to such customers if they were not receiving any of the
7 four forms of assistance which confer eligibility for the special
8 reduced rates approved by the commission. Before any individual may
9 qualify to receive the special reduced rates, the following
10 requirements must be met:

11 (a) The special reduced rates may apply only to current
12 customers or to those persons who subsequently become customers in
13 their own right. If an SSI, TANF, TANF-UP or food stamp recipient
14 is living in a household which is served under the name of a person
15 who is not an SSI, TANF, TANF-UP or food stamp recipient, that
16 service may not be changed or have been changed subsequent to July
17 1, 2011, to the name of the SSI, TANF, TANF-UP or food stamp
18 recipient in order to qualify for service under the special reduced
19 rates.

20 (b) The burden of proving eligibility for the special reduced
21 rates shall be on the customer requesting such rates. The
22 Department of Health and Human Resources shall establish by rules
23 procedures: (1) To inform persons receiving any of the four forms
24 of assistance which confer eligibility for the special reduced
25 rates about the availability of the special reduced rates; (2) to
26 assist applicants for the special reduced rates in proving their

1 eligibility therefore; and (3) to assist water utilities offering
2 the special reduced rates in determining on a continuing basis the
3 eligibility therefore of persons receiving or applying for such
4 rates. The commission shall establish by rules procedures for the
5 application for and provision of service under the special reduced
6 rates and for the determination and certification of revenue
7 deficiencies resulting from the special reduced rates.

8 (c) In order to provide each eligible residential utility
9 customer the special reduced rates, each utility providing the
10 special reduced rates shall credit against the amount otherwise
11 owed by each customer an amount equal to the difference between the
12 total amount that each such customer was actually billed during the
13 previous month and the total amount that each customer would have
14 been entitled to be billed under the special reduced rates. Each
15 such credit shall be fully reflected on the first bill issued to
16 each such customer after approval of each such customer's
17 application for the special reduced rates, except in cases where
18 the interval between the approval and the issuance of the next bill
19 is so short that it is administratively impracticable to do so, in
20 which cases such credits shall be fully reflected on the second
21 bill issued to each such customer after approval of that customer's
22 application. If the interval between the approval and the issuance
23 of the next bill is fifteen days or more, it shall not be deemed
24 administratively impracticable to reflect such credit on the
25 customer's first such bill.

26 **ARTICLE 3. DUTIES AND PRIVILEGES OF PUBLIC UTILITIES SUBJECT TO**

for low-income residential customers of privately owned water utilities.

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

§24-2A-5 is new; therefore, it has been completely underscored.