

1
2
3
4
5
6
7
8
9

H. B. 3074

(By Delegates Manchin, Barill, Fleischauer,
Marshall, Pasdon, Caputo, Wells, Williams,
D. Campbell, Lawrence and Cowles)

[Introduced February 9, 2011; referred to the
Committee on Government Organization then the Judiciary.]

10 A BILL to amend and reenact §24A-2-5 of the Code of West Virginia,
11 1931, as amended, relating to requiring the Public Service
12 Commission to issue a certificate of convenience and necessity
13 for taxi cab service to two separately owned business
14 entities, that service a territory consisting of a Class II
15 municipality and land grant university enrolling at least
16 twenty thousand students.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §24A-2-5 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted to read as follows:

20 **ARTICLE 2. COMMON CARRIERS BY MOTOR VEHICLES.**

21 **§24A-2-5. Certificate of convenience and necessity.**

22 (a) ~~Required; application; hearing; granting. It shall be~~ It
23 is unlawful for any common carrier by motor vehicle to operate
24 within this state without ~~first~~ having obtained from the commission
25 a certificate of convenience and necessity.

26 (b) Upon the filing of an application for ~~such~~ a certificate,
27 the commission shall set a time and place for a hearing on the
28 application: *Provided*, That the commission may, after giving proper

1 notice and if no protest is received, waive formal hearing on the
2 application.

3 (c) Proper notice shall be by publication which shall state
4 that a formal hearing may be waived in the absence of a protest to
5 ~~such the~~ application. The notice shall be published as a Class I
6 legal advertisement in compliance with the provisions of article
7 three, chapter fifty-nine of this code and the publication area for
8 ~~such the~~ publication ~~shall be~~ is the proposed area of operation.
9 The notice shall be published at least ten days prior to the date
10 of the hearing.

11 (d) After the hearing or waiver by the commission of the
12 hearing, if the commission finds from the evidence that the public
13 convenience and necessity require the proposed service or any part
14 thereof, it shall issue the certificate ~~as prayed for~~ or issue it
15 for the partial exercise only of the privilege sought, and may
16 attach to the exercise of the right granted by ~~such the~~ certificate
17 ~~such~~ terms and conditions as in its judgment the public convenience
18 and necessity may require, and if the commission ~~shall be~~ is of the
19 opinion that the service rendered by any common carrier holding a
20 certificate of convenience and necessity over any route or routes
21 in this state is in any respect inadequate or insufficient to met
22 the public needs, ~~such the~~ certificate holder shall be given
23 reasonable time and opportunity to remedy ~~such the~~ inadequacy or
24 insufficiency before ~~any a~~ certificate ~~shall be~~ is granted to an
25 applicant proposing to operate over ~~such the~~ route or routes as a
26 common carrier.

27 (e) Before granting a certificate to a common carrier by motor

1 vehicle the commission shall take into consideration existing
2 transportation facilities in the territory for which a certificate
3 is sought, and in case it finds from the evidence that the service
4 furnished by existing transportation facilities is reasonably
5 efficient and adequate, the commission ~~shall~~ may not grant ~~such~~ (a)
6 certificate.

7 ~~(b) Rules and regulations; taking evidence at hearings; burden~~
8 ~~of proof.~~

9 (f) Notwithstanding any other process provided by this
10 section, the commission shall issue, upon application and a showing
11 of fitness, a certificate for taxi cab service to two separately
12 owned business entities, that service the same existing territory
13 that includes a Class II municipality and land grant university
14 enrolling at least twenty thousand students.

15 (g) The commission shall ~~prescribe such rules and regulations~~
16 ~~as it may deem proper~~ promulgate rules for the enforcement of the
17 provisions of this section and in establishing that public
18 convenience and necessity do exist the burden of proof ~~shall be~~
19 upon is on the applicant. The commission may designate any of its
20 employees to take evidence at the application hearing ~~of any~~
21 ~~application~~ for a certificate and submit findings of fact as a part
22 of a report or reports to be made to the commission.

23 ~~(c) Certificate not franchise, etc.; assignment or transfer.~~

24 (h) No certificate issued in accordance with the terms of this
25 ~~chapter~~ shall be construed to be either a franchise or irrevocable
26 or to confer any proprietary or property rights in the use of the

1 public highways. No certificate issued ~~under this chapter shall be~~
2 ~~assigned or otherwise~~ may be transferred without the approval of
3 the commission. Upon the death of a person holding a certificate,
4 his or her personal representative ~~or representatives~~ may operate
5 under ~~such~~ the certificate while ~~the same~~ it remains in force and
6 effect and, with the consent of the commission, may transfer ~~such~~
7 the certificate.

8 ~~(d) Suspension, revocation or amendment.~~ (i) The commission
9 may at any time, for good cause, suspend and, upon not less than
10 fifteen days' notice to the ~~grantee of any~~ certificate holder and
11 an opportunity to be heard, revoke or amend any certificate.

12 ~~(e) The commission shall have the authority, after hearing, to~~
13 ~~ratify, approve and affirm those orders issued pursuant to this~~
14 ~~section since March 10, nineteen hundred seventy nine. For the~~
15 ~~purposes of this subsection the commission may give notice by a~~
16 ~~Class I legal advertisement of such hearing in any newspaper or~~
17 ~~newspapers of general circulation in this state, and such other~~
18 ~~newspapers as the commission may designate.~~

NOTE: The purpose of this bill is to require the Public Service Commission to issue a certificate of convenience and necessity for taxi cab service to two separately owned business entities, that service a territory consisting of a Class II municipality and land grant university enrolling at least 20,000 students.

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