

1 **Senate Bill No. 82**

2 (By Senators Snyder, Blair and Unger)

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4 [Introduced February 13, 2013; referred to the Committee on  
5 Government Organization.]

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10 A BILL to amend and reenact §16-13A-3 of the Code of West Virginia,  
11 1931, as amended, relating to requiring a public service board  
12 to have at least one rate-paying residential customer of the  
13 public service district on its board membership.

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

15 That §16-13A-3 of the Code of West Virginia, 1931, as amended,  
16 be amended and reenacted to read as follows:

17 **ARTICLE 13A. PUBLIC SERVICE DISTRICTS.**

18 **§16-13A-3. District to be a public corporation and political**  
19 **subdivision; powers thereof; public service boards.**

20 From and after the date of the adoption of the order creating  
21 any public service district, it is a public corporation and  
22 political subdivision of the state, but without any power to levy  
23 or collect ad valorem taxes. Each district may acquire, own and

1 hold property, both real and personal, in its corporate name, and  
2 may sue, may be sued, may adopt an official seal and may enter into  
3 contracts necessary or incidental to its purposes, including  
4 contracts with any city, incorporated town or other municipal  
5 corporation located within or without its boundaries for furnishing  
6 wholesale supply of water for the distribution system of the city,  
7 town or other municipal corporation, or for furnishing storm water  
8 services for the city, town or other municipal corporation, and  
9 contract for the operation, maintenance, servicing, repair and  
10 extension of any properties owned by it or for the operation and  
11 improvement or extension by the district of all or any part of the  
12 existing municipally owned public service properties of any city,  
13 incorporated town or other municipal corporation included within  
14 the district: *Provided*, That no contract shall extend beyond a  
15 maximum of forty years, but provisions may be included therein for  
16 a renewal or successive renewals thereof and shall conform to and  
17 comply with the rights of the holders of any outstanding bonds  
18 issued by the municipalities for the public service properties.

19       The powers of each public service district shall be vested in  
20 and exercised by a public service board consisting of not less than  
21 three members who shall be persons residing within the district,  
22 who possess certain educational, business or work experience which  
23 will be conducive to operating a public service district. In the  
24 event the public service district is providing any utility service

1 and billing rates and charges to its customers, at least one board  
2 member shall be a rate-paying residential customer of the public  
3 service district: Provided, That if an existing public service  
4 board does not have a member who is a rate-paying residential  
5 customer of the public service district on July 1, 2013, the next  
6 following appointment to the board shall be a rate-paying  
7 residential customer of that public service district. For purposes  
8 of this section, "rate-paying residential customer" means a person  
9 who:

10 (1) In the case of a water or sewer public service district,  
11 is physically connected to and actively receiving residential  
12 public service district utility services; or

13 (2) In the case of a storm water public service district, has  
14 storm water conveyed away from the residential property by a  
15 utility owned system; and

16 (3) Has an active account in good standing and is the occupier  
17 of the residential property which is on the public service district  
18 utility service account.

19 Each board member shall, within six months of taking office,  
20 successfully complete the training program to be established and  
21 administered by the Public Service Commission in conjunction with  
22 the ~~Division~~ Department of Environmental Protection and the Bureau  
23 of Public Health. Board members shall not be or become pecuniarily  
24 interested, directly or indirectly, in the proceeds of any contract

1 or service, or in furnishing any supplies or materials to the  
2 district nor shall a former board member be hired by the district  
3 in any capacity within a minimum of twelve months after board  
4 member's term has expired or such board member has resigned from  
5 the district board. The members shall be appointed in the  
6 following manner:

7       Each city, incorporated town or other municipal corporation  
8 having a population of more than three thousand but less than  
9 eighteen thousand is entitled to appoint one member of the board,  
10 and each city, incorporated town or other municipal corporation  
11 having a population in excess of eighteen thousand shall be  
12 entitled to appoint one additional member of the board for each  
13 additional eighteen thousand population. The members of the board  
14 representing such cities, incorporated towns or other municipal  
15 corporations shall be residents thereof and shall be appointed by  
16 a resolution of the governing bodies thereof and upon the filing of  
17 a certified copy or copies of the resolution or resolutions in the  
18 office of the clerk of the county commission which entered the  
19 order creating the district, the persons so appointed become  
20 members of the board without any further act or proceedings. If  
21 the number of members of the board so appointed by the governing  
22 bodies of cities, incorporated towns or other municipal  
23 corporations included in the district equals or exceeds three, then  
24 no further members shall be appointed to the board and the members

1 so appointed are the board of the district except in cases of  
2 merger or consolidation where the number of board members may equal  
3 five.

4       If no city, incorporated town or other municipal corporation  
5 having a population of more than three thousand is included within  
6 the district, then the county commission which entered the order  
7 creating the district shall appoint three members of the board, who  
8 are persons residing within the district and residing within the  
9 State of West Virginia, which three members become members of the  
10 board of the district without any further act or proceedings except  
11 in cases of merger or consolidation where the number of board  
12 members may equal five.

13       If the number of members of the board appointed by the  
14 governing bodies of cities, incorporated towns or other municipal  
15 corporations included within the district is less than three, then  
16 the county commission which entered the order creating the district  
17 shall appoint such additional member or members of the board, who  
18 are persons residing within the district, as is necessary to make  
19 the number of members of the board equal three except in cases of  
20 merger or consolidation where the number of board members may equal  
21 five, and the member or members appointed by the governing bodies  
22 of the cities, incorporated towns or other municipal corporations  
23 included within the district and the additional member or members  
24 appointed by the county commission as aforesaid, are the board of

1 the district. A person may serve as a member of the board in one  
2 or more public service districts.

3 The population of any city, incorporated town or other  
4 municipal corporation, for the purpose of determining the number of  
5 members of the board, if any, to be appointed by the governing body  
6 or bodies thereof, is the population stated for such city,  
7 incorporated town or other municipal corporation in the last  
8 official federal census.

9 Notwithstanding any provision of this code to the contrary,  
10 whenever a district is consolidated or merged pursuant to section  
11 two of this article, the terms of office of the existing board  
12 members shall end on the effective date of the merger or  
13 consolidation. The county commission shall appoint a new board  
14 according to rules promulgated by the Public Service Commission.  
15 Whenever districts are consolidated or merged no provision of this  
16 code prohibits the expansion of membership on the new board to  
17 five.

18 The respective terms of office of the members of the first  
19 board shall be fixed by the county commission and shall be as  
20 equally divided as may be, that is approximately one third of the  
21 members for a term of two years, a like number for a term of four  
22 years, the term of the remaining member or members for six years,  
23 from the first day of the month during which the appointments are  
24 made. The first members of the board appointed as aforesaid shall

1 meet at the office of the clerk of the county commission which  
2 entered the order creating the district as soon as practicable  
3 after the appointments and shall qualify by taking an oath of  
4 office: *Provided*, That any member or members of the board may be  
5 removed from their respective office as provided in section three-a  
6 of this article.

7 Any vacancy shall be filled for the unexpired term within  
8 thirty days; otherwise successor members of the board shall be  
9 appointed for terms of six years and the terms of office shall  
10 continue until successors have been appointed and qualified. All  
11 successor members shall be appointed in the same manner as the  
12 member succeeded was appointed. The district shall provide to the  
13 Public Service Commission, within thirty days of the appointment,  
14 the following information: The new board member's name, home  
15 address, home and office phone numbers, date of appointment, length  
16 of term, who the new member replaces and if the new appointee has  
17 previously served on the board. The Public Service Commission  
18 shall notify each new board member of the legal obligation to  
19 attend training as prescribed in this section.

20 The board shall organize within thirty days following the  
21 first appointments and annually thereafter at its first meeting  
22 after January 1 of each year by selecting one of its members to  
23 serve as chair and by appointing a secretary and a treasurer who  
24 need not be members of the board. The secretary shall keep a

1 record of all proceedings of the board which shall be available for  
2 inspection as other public records. Duplicate records shall be  
3 filed with the county commission and shall include the minutes of  
4 all board meetings. The treasurer is lawful custodian of all funds  
5 of the public service district and shall pay same out on orders  
6 authorized or approved by the board. The secretary and treasurer  
7 shall perform other duties appertaining to the affairs of the  
8 district and shall receive salaries as shall be prescribed by the  
9 board. The treasurer shall furnish bond in an amount to be fixed  
10 by the board for the use and benefit of the district.

11 The members of the board, and the chair, secretary and  
12 treasurer thereof, shall make available to the county commission,  
13 at all times, all of its books and records pertaining to the  
14 district's operation, finances and affairs, for inspection and  
15 audit. The board shall meet at least monthly.

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(NOTE: The purpose of this bill is to require that a public service board have at least one rate paying residential customer of the public service district on its board membership.)

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