

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4587**

BY DELEGATES D. JEFFRIES, C. MARTIN, WORRELL,

CADLE, HAMRICK, SYPOLT AND PORTERFIELD

[Introduced January 29, 2020; Referred to the  
Committee on Government Organization then the  
Judiciary]

1 A BILL to amend and reenact §24-2-4 and §24-2-4a of the Code of West Virginia, 1931, as  
 2 amended; to amend said code by adding thereto a new section, designated §24-2-4e; to  
 3 amend and reenact §24A-2-4 of said code; to amend and reenact §24A-5-2 of said code;  
 4 to amend said code by adding thereto two new sections, designated §24A-5-2a and §24A-  
 5 5-2b; and to amend and reenact §24A-6-1 of said code, all relating to the regulation of the  
 6 collection, hauling, and disposal of solid waste by motor carriers; authorizing indexed  
 7 automatic rate increases for solid waste disposal at landfills; authorizing indexed  
 8 automatic rate increases for solid waste collection and hauling; authorizing rural rates for  
 9 solid waste collection and hauling; authorizing multi-year contracts; setting procedures for  
 10 the approval of rates; authorizing solid waste carriers to require pooling; and authorizing  
 11 the Public Service Commission to promulgate rules.

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

## **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

### **ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.**

#### **§24-2-4. Procedure for changing rates.**

1 No public utility subject to this chapter, except those utilities subject to the provisions of  
 2 section four-b of this article and those utilities subject to the provisions of §24a-5-2a of this code,  
 3 shall change, suspend or annul any rate, joint rate, charge, rental or classification except after 30  
 4 days' notice to the commission and the public, which notice shall plainly state the changes  
 5 proposed to be made in the schedule then in force and the time when the changed rates or  
 6 charges shall go into effect; but the commission may enter an order suspending the proposed  
 7 rate as hereinafter provided. The proposed changes shall be shown by printing new schedules,  
 8 or shall be plainly indicated upon the schedules in force at the time, and kept open to public  
 9 inspection: *Provided*, That the commission may, in its discretion, and for good cause shown, allow  
 10 changes upon less time than the notice herein specified, or may modify the requirements of this  
 11 section in respect to publishing, posting and filing of tariffs, either by particular instructions or by

12 general order.

13 Whenever there shall be filed with the commission any schedule stating a change in the  
14 rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or  
15 joint classification or any new individual or joint regulation or practice affecting any rate or charge,  
16 the commission shall have authority, either upon complaint or upon its own initiative without  
17 complaint, to enter upon a hearing concerning the propriety of such rate, charge, classification,  
18 regulation or practice; and, if the commission so orders, it may proceed without answer or other  
19 form of pleading by the interested parties, but upon reasonable notice, and, pending such hearing  
20 and the decision thereon, the commission, upon filing with such schedule and delivering to the  
21 public utility affected thereby a statement in writing of its reasons for such suspension, may  
22 suspend the operation of such schedule and defer the use of such rate, charge, classification,  
23 regulation or practice, but not for a longer period than 120 days beyond the time when such rate,  
24 charge, classification, regulation or practice would otherwise go into effect; and after full hearing,  
25 whether completed before or after the rate, charge, classification, regulation or practice goes into  
26 effect, the commission may make such order in reference to such rate, charge, classification,  
27 regulation or practice as would be proper in a proceeding initiated after the rate, charge,  
28 classification, regulation or practice had become effective: *Provided*, That if any such hearing and  
29 decision thereon cannot be concluded within the period of suspension, as above stated, such  
30 rate, charge, classification, regulation or practice shall go into effect at the end of such period. In  
31 such case the commission may require such public utility to enter into a bond in an amount  
32 deemed by the commission to be reasonable and conditioned for the refund to the persons or  
33 parties entitled thereto of the amount of the excess, plus interest at the rate of not less than seven  
34 percent per annum, as may be specified by the commission, if such rate so put into effect is  
35 subsequently determined to be higher than those finally fixed for such utility. In specifying the  
36 applicable interest rate, the commission shall be guided by the interest rate which such public  
37 utility would in all probability have to agree to pay if such public utility at that time borrowed in the

38 marketplace a sum of money equivalent to the amount of money the commission estimates the  
39 increase in rates will produce between the effective date of such increase and the anticipated  
40 date the rates will be finally fixed for such public utility, it being intended that a public utility should  
41 be discouraged from imposing higher rates than it should reasonably anticipate will be finally fixed  
42 as a means in effect of borrowing money at a rate of interest less than such public utility would  
43 have to agree to pay if it borrowed money in the marketplace. No such accrued interest paid on  
44 any such refund shall be deemed part of the cost of doing business in a subsequent application  
45 for changing rates or any decision thereon. At any hearing involving a rate sought to be increased  
46 or involving the change of any fare, charge, classification, regulation or practice, the burden of  
47 proof to show that the increased rate or proposed increased rate, or the proposed change of fare,  
48 charge, classification, regulation or practice is just and reasonable shall be upon the public utility  
49 making application for such change. When in any case pending before the commission all  
50 evidence shall have been taken, and the hearing completed, the commission shall, within three  
51 months, render a decision in such case.

52           Where more than 20 members of the public are affected by a proposed change in rates,  
53 it shall be a sufficient notice to the public within the meaning of this section if such notice is  
54 published as a Class II legal advertisement in compliance with the provision of article three,  
55 chapter 59 of this code, and the publication area for such publication shall be the community  
56 where the majority of the resident members of the public affected by such change reside or, in  
57 case of nonresidents, have their principal place of business within this state. The provisions of  
58 this section shall expire on and be of no further force and effect after June 30, 1981, except that  
59 as to any case pending on said date in which the suspension period has expired and rates are in  
60 effect under bond such case shall be proceeded with in accordance with this section; as to any  
61 other case pending on said date, the commission shall treat the case as filed anew on July 1,  
62 1981, except that it shall not be necessary for any new process or notice to be served or  
63 published.

**§24-2-4a. Procedure for changing rates after June 30, 1981.**

1           (a) After June 30, 1981, no public utility subject to this chapter, except for those entities  
2 subject to the provisions of §24a-5-2a of this code and water and/or sewer utilities that are political  
3 subdivisions of the state providing separate or combined services and having at least 4,500  
4 customers and annual gross revenue of \$3 million or more from its separate or combined services,  
5 shall change, suspend or annul any rate, joint rate, charge, rental or classification except after  
6 thirty days' notice to the commission and the public, which notice shall plainly state the changes  
7 proposed to be made in the schedule then in force and the time when the changed rates or  
8 charges shall go into effect; but the commission may enter an order suspending the proposed  
9 rate as hereinafter provided. The proposed changes shall be shown by printing new schedules,  
10 or shall be plainly indicated upon the schedules in force at the time, and kept open to public  
11 inspection: *Provided*, That the commission may, in its discretion, and for good cause shown, allow  
12 changes upon less time than the notice herein specified, or may modify the requirements of this  
13 section in respect to publishing, posting and filing of tariffs, either by particular instructions or by  
14 general order.

15           (b) Whenever there shall be filed with the commission any schedule stating a change in  
16 the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge  
17 or joint classification or any new individual or joint regulation or practice affecting any rate or  
18 charge, the commission may, either upon complaint or upon its own initiative without complaint,  
19 enter upon a hearing concerning the propriety of such rate, charge, classification, regulation or  
20 practice; and, if the commission so orders, it may proceed without answer or other form of  
21 pleading by the interested parties, but upon reasonable notice, and, pending such hearing and  
22 the decisions thereon, the commission, upon filing with such schedule and delivering to the public  
23 utility affected thereby a statement in writing of its reasons for such suspension, may suspend the  
24 operation of such schedule and defer the use of such rate, charge, classification, regulation or  
25 practice, but not for a longer period than two hundred seventy days beyond the time when such

26 rate, charge, classification, regulation or practice would otherwise go into effect; and after full  
27 hearing, whether completed before or after the rate, charge, classification, regulation or practice  
28 goes into effect, the commission may make such order in reference to such rate, charge,  
29 classification, regulation or practice as would be proper in a proceeding initiated after the rate,  
30 charge, classification, regulation or practice had become effective: *Provided*, That in the case of  
31 a public utility having two thousand five hundred customers or less and which is not a political  
32 subdivision and which is not principally owned by any other public utility corporation or public  
33 utility holding corporation, the commission may suspend the operation of such schedule and defer  
34 the use of such rate, charge, classification, regulation or practice, but not for a longer period than  
35 one hundred twenty days beyond the time when such rate, charge, classification, regulation or  
36 practice would otherwise go into effect; and in the case of a public utility having more than two  
37 thousand five hundred customers, but not more than five thousand customers, and which is not  
38 a political subdivision and which is not principally owned by any other public utility corporation or  
39 public utility holding corporation, the commission may suspend the operation of such schedule  
40 and defer the use of such rate, charge, classification, regulation or practice, but not for a longer  
41 period than one hundred fifty days beyond the time when such rate, charge, classification,  
42 regulation or practice would otherwise go into effect; and in the case of a public utility having more  
43 than five thousand customers, but not more than seven thousand five hundred customers, and  
44 which is not a political subdivision and which is not principally owned by any other public utility  
45 corporation or public utility holding corporation, the commission may suspend the operation of  
46 such schedule and defer the use of such rate, charge, classification, regulation or practice, but  
47 not for a longer period than one hundred eighty days beyond the time when such rate, charge,  
48 classification, regulation or practice would otherwise go into effect; and after full hearing, whether  
49 completed before or after the rate, charge, classification, regulation or practice goes into effect,

50 the commission may make such order in reference to such rate, charge, classification, regulation  
51 or practice as would be proper in a proceeding initiated after the rate, charge, classification,  
52 regulation or practice had become effective: *Provided, however,* That, in the case of rates  
53 established or proposed that increase by less than twenty-five percent of the gross revenue of  
54 the regulated public service district, there shall be no suspension period in the case of rates  
55 established by a public service district pursuant to section nine, article thirteen-a, chapter sixteen  
56 of this code and the proposed rates of public service districts shall go into effect upon the date of  
57 filing with the commission, subject to refund modification at the conclusion of the commission  
58 proceeding. In the case of rates established or proposed that increase by more than twenty-five  
59 percent of the gross revenue of the public service district, the district may apply for, and the  
60 commission may grant, a waiver of the suspension period and allow rates to be effective upon  
61 the date of filing with the commission. The public service district shall provide notice by Class 1  
62 legal advertisement in a newspaper of general circulation in its service territory of the percentage  
63 increase in rates at least fourteen days prior to the effective date of the increased rates. Any  
64 refund determined to be determined to be due and owing as a result of any difference between  
65 any final rates approved by the commission and the rates placed into effect subject to refund shall  
66 be refunded by the public service district as a credit against each customer's account for a period  
67 of up to six months after entry of the commission's final order. Any remaining balance which is  
68 not fully credited by credit within six months after entry of the commission's final order shall be  
69 directly refunded to the customer by check: *Provided further,* That if any such hearing and decision  
70 thereon is not concluded within the periods of suspension, as above stated, such rate, charge,  
71 classification, regulation or practice shall go into effect at the end of such period not subject to  
72 refund: *And provided further,* That if any such rate, charge, classification, regulation or practice  
73 goes into effect because of the failure of the commission to reach a decision, the same shall not

74 preclude the commission from rendering a decision with respect thereto which would disapprove,  
75 reduce or modify any such proposed rate, charge, classification, regulation or practice, in whole  
76 or in part, but any such disapproval, reduction or modification shall not be deemed to require a  
77 refund to the customers of such utility as to any rate, charge, classification, regulation or practice  
78 so disapproved, reduced or modified. The fact of any rate, charge, classification, regulation or  
79 practice going into effect by reason of the commission's failure to act thereon shall not affect the  
80 commission's power and authority to subsequently act with respect to any such application or  
81 change in any rate, charge, classification, regulation or practice. Any rate, charge, classification,  
82 regulation or practice which shall be approved, disapproved, modified or changed, in whole or in  
83 part, by decision of the commission shall remain in effect as so approved, disapproved, modified  
84 or changed during the period or pendency of any subsequent hearing thereon or appeal  
85 therefrom. Orders of the commission affecting rates, charges, classifications, regulations or  
86 practices which have gone into effect automatically at the end of the of the suspension period are  
87 prospective in effect.

88 (c) At any hearing involving a rate sought to be increased or involving the change of any  
89 rate, charge, classification, regulation or practice, the burden of proof to show the justness and  
90 reasonableness of the increased rate or proposed increased rate, or the proposed change of rate,  
91 charge, classification, regulation or practice shall be upon the public utility making application for  
92 such change. The commission shall, whenever practicable and within budgetary constraints,  
93 conduct one or more public hearings within the area served by the public utility making application  
94 for such increase or change, for the purpose of obtaining comments and evidence on the matter  
95 from local ratepayers.

96 (d) Each public utility subject to the provisions of this section shall be required to establish,  
97 in a written report which shall be incorporated into each general rate case application, that it has



98 thoroughly investigated and considered the emerging and state-of-the-art concepts in the utility  
99 management, rate design and conservation as reported by the commission under subsection (c),  
100 section one, article one of this chapter as alternatives to, or in mitigation of, any rate increase.  
101 The utility report shall contain as to each concept considered the reasons for adoption or rejection  
102 of each. When in any case pending before the commission all evidence shall have been taken  
103 and the hearing completed, the commission shall render a decision in such case. The failure of  
104 the commission to render a decision with respect to any such proposed change in any such rate,  
105 charge, classification, regulation or practice within the various time periods specified in this  
106 section after the application therefor shall constitute neglect of duty on the part of the commission  
107 and each member thereof.

108 (e) Where more than twenty members of the public are affected by a proposed change in  
109 rates, it shall be a sufficient notice to the public within the meaning of this section if such notice is  
110 published as a Class II legal advertisement in compliance with the provisions of article three,  
111 chapter fifty-nine of this code and the publication area for such publication shall be the community  
112 where the majority of the resident members of the public affected by such change reside or, in  
113 case of nonresidents, have their principal place of business within this state.

114 (f) The commission may order rates into effect subject to refund, plus interest in the  
115 discretion of the commission, in cases in which the commission determines that a temporary or  
116 interim rate increase is necessary for the utility to avoid financial distress, or in which the costs  
117 upon which these rates are based are subject to modification by the commission or another  
118 regulatory commission and to refund to the public utility. In such case the commission may require  
119 such public utility to enter into a bond in an amount deemed by the commission to be reasonable  
120 and conditioned upon the refund to the persons or parties entitled thereto of the amount of the  
121 excess if such rates so put into effect are subsequently determined to be higher than those finally

122  
123 (g) No utility regulated under the provisions of this section may make application for a  
124 general rate increase while another general rate application is pending before the commission  
125 and not finally acted upon, except pursuant to the provisions of subsection (f) of this section. The  
126 provisions of this subsection shall not be construed so as to prohibit any such rate application  
127 from being made while a previous application which has been finally acted upon by the  
128 commission is pending before or upon appeal to the West Virginia Supreme Court of Appeal.

**§24-2-4e Landfill Operator Price Adjustment.**

1 Notwithstanding any provision of this code to the contrary and effective July 1, 2020,  
2 landfill operators shall be permitted to increase rates for the disposal of solid waste on January 1,  
3 of each year without the filing of an application with the commission for approval of such increase  
4 and such increase shall be considered just and reasonable and not unfairly discriminatory,  
5 prejudicial or preferential if: (1) The landfill operator provides 30 days' written notice to the  
6 commission, as well as notice to customers by a bill insert, post card, conspicuous posting at the  
7 landfill, or posting on the operator's website or social media; and (2) the percentage of the  
8 increase over the prior rate is equal to or less than the percentage of any increase in the United  
9 States Department of Labor Bureau of Labor Statistics Waste Sewer Trash Index (WST Index)  
10 from January 1, of the preceding year. Any rate increase that a landfill operator believes is at or  
11 below the aforementioned increase in the WST Index shall be identified as such when filed with  
12 the commission. Such rate increases shall be subject to challenge by the commission only if it  
13 determines that the increase is in fact in excess of the amount of the increase in the WST Index  
14 for the relevant time period. If the commission determines a rate increase filed pursuant to this  
15 subsection is in excess of the increase in the WST Index for the relevant time period, it may enter  
16 an order suspending the rate increase consistent with §24a-5-2a of this code. If such an order is

17 entered, the motor carrier shall be entitled to a hearing pursuant to the process authorized in  
 18 §24A-5-4a of this code.

19 Notwithstanding any provision to the contrary, the fact that a landfill operator has already  
 20 raised its rates pursuant to this subsection in a given year shall not preclude it from applying to  
 21 and receiving from the commission a rate increase according to those processes set forth  
 22 elsewhere in this code and the commission's rules: *Provided*, That the commission may take into  
 23 account the rate increase taken under this subsection when considering the landfill operator's  
 24 application to the commission to increase rates.

## **CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.**

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

#### **§24A-2-4. Rates, fares and charges.**

1 (a) All rates, fares and charges made by any common carrier by motor vehicle shall be  
 2 just and reasonable, and shall not be unlawfully discriminatory, prejudicial nor preferential. No  
 3 such carrier shall charge, demand, collect, or receive a greater or less or different remuneration  
 4 for the transportation of passengers or property, or for any service in connection therewith, than  
 5 the rates, fares, and charges which have been legally established and filed with the commission;  
 6 nor shall any such carrier refund, remit, discount or rebate in any manner or by any device any  
 7 portion of the rates, fares, and charges required to be collected by the tariffs on file with or ordered  
 8 by the commission.

9 (b) Notwithstanding any provision of this code to the contrary, effective July 1, 2020, motor  
 10 carriers may enter into multi-year contracts with both commercial and residential customers for  
 11 the collection and hauling of solid waste.

### **ARTICLE 5. POWERS AND DUTIES OF COMMISSION.**

#### **§24A-5-2. Procedure for changing rates, etc.**

1 (a) No motor carrier subject to this chapter shall change, suspend, or annul any individual  
 2 rate, joint rate, fare, charge, or classification for the transportation of passengers or property

3 except after 30 days' notice to the commission and the public, which notice shall plainly state the  
4 changes proposed to be made in the schedule then in force and the time when the changed rates  
5 or charges shall go into effect. The commission may enter an order suspending the proposed rate  
6 and prohibiting such motor carrier from putting such proposed new rate into effect pending the  
7 hearing and final decision of the matter, in which case the proposed new rate shall stand  
8 suspended until it is determined by the commission whether or not the same is just or reasonable.  
9 The proposed changes shall be shown by printing new schedules, or shall be plainly indicated  
10 upon the schedules in force at the time, and kept open to public inspection: *Provided*, however,  
11 That the commission may, in its discretion, and for good cause shown, allow changes upon less  
12 time than the notice herein specified, or may modify the requirements of this section in respect to  
13 publishing, posting and filing of tariffs, either by particular instructions or by general order.

14 (b) Whenever there shall be filed with the commission any schedule stating a change in  
15 the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge  
16 or joint classification or any new individual or joint regulation or practice affecting any rate or  
17 charge, the commission shall have authority, either upon complaint or upon its own initiative  
18 without complaint, to enter upon a hearing concerning the propriety of such rate, charge,  
19 classification, regulation or practice; and, if the commission so orders, it may proceed without  
20 answer or other form of pleading by the interested parties, but upon reasonable notice, and  
21 pending such hearing and the decision thereon the commission, upon filing with such schedule  
22 and delivering to the motor carrier affected thereby a statement in writing of its reasons for such  
23 suspension, may suspend the operation of such schedule and defer the use of such rate, charge,  
24 classification, regulation or practice, but not for a longer period than 120 days beyond the time  
25 when such rate, charge, classification, regulation or practice would otherwise go into effect; and  
26 after full hearing, whether completed before or after the rate, charge, classification, regulation, or  
27 practice goes into effect, the commission may make such order in reference to such rate, charge,  
28 classification, regulation or practice as would be proper in a proceeding initiated after the rate,

29 charge, classification, regulation or practice had become effective: *Provided*, That if any such  
30 hearing cannot be conducted within the period of suspension, as above stated, the commission  
31 may in its discretion extend the time of suspension for a further period, not exceeding six months.  
32 At any hearing involving a rate sought to be increased or involving the change of any fare, charge,  
33 classification, regulation or practice, the burden of proof to show that the increased rate or  
34 proposed increased rate, or the proposed change of fare, charge, classification, regulation or  
35 practice, is just and reasonable, shall be upon the motor carrier making application for such  
36 change. When in any case pending before the commission all evidence shall have been taken,  
37 and the hearing completed, the commission shall, within three months, render a decision in such  
38 case.

39 (c) The commission shall prescribe such rules and regulations as to the giving of notice of  
40 a change in rates as are reasonable and are deemed proper in the public interest.

41 (d) Effective July 1, 2020, the rates and charges for the collection and hauling of solid  
42 waste by motor carriers under this article are no longer subject to the provisions of this section  
43 but are subject to the rate provisions of section two-a of this article.

**§24A-5-2a. Procedure for changing rates for collection and hauling of solid waste by motor carriers; rural rates.**

1 (a) Notwithstanding any provision of this code to the contrary, effective July 1, 2020, no  
2 solid waste motor carrier subject to this chapter shall change, suspend, or annul any individual  
3 rate, joint rate, fare, charge, or classification for the collection or hauling of solid waste, except  
4 after 30 days' notice to the commission and the carrier's customers, with such notice to customers  
5 being sent as a bill insert or separately mailed statement that plainly states the changes proposed  
6 to be made in the schedule then in force and the time when the changed rates or charges will go  
7 into effect.

8 (b) Any proposed rates changes shall be shown by printing new schedules, or shall be  
9 plainly indicated upon the schedules in force at the time, and kept open to public inspection:

10 Provided, That the commission may, in its discretion, and for good cause shown, allow changes  
11 upon less time than the notice herein specified, or may modify the requirements of this section in  
12 respect to publishing, posting and filing of tariffs, either by particular instructions or by general  
13 order.

14 (c) Whenever a solid waste motor carrier shall file with the commission any schedule  
15 stating a change in the rates or charges, or joint rates or charges, or stating a new individual or  
16 joint rate or charge or joint classification or any new individual or joint regulation or practice  
17 affecting any rate or charge, except as set forth in subsection (d) below, the commission shall  
18 have authority, upon substantial protest demonstrated by the complaints submitted by lesser of:  
19 (i) Twenty-five percent of the customers impacted by the proposed change in rates or charges;  
20 or (ii) 750 customers impacted by the proposed change in rates or charges, to enter upon a  
21 hearing concerning the propriety of such rate, charge, classification, regulation or practice; and,  
22 if the commission so orders, it may proceed without answer or other form of pleading by the  
23 interested parties, but upon reasonable notice, and pending such hearing and the decision  
24 thereon the commission, upon filing with such schedule and delivering to the motor carrier  
25 affected thereby a statement in writing of its reasons for such suspension, may suspend the  
26 operation of such schedule and defer the use of such rate, charge, classification, regulation or  
27 practice; and after full hearing, whether completed before or after the rate, charge, classification,  
28 regulation, or practice goes into effect, the commission may make such order in reference to such  
29 rate, charge, classification, regulation or practice as would be proper in a proceeding initiated  
30 after the rate, charge, classification, regulation or practice had become effective. At any hearing  
31 involving a rate sought to be increased or involving the change of any fare, charge, classification,  
32 regulation or practice, the burden of proof to show that the increased rate or proposed increased  
33 rate, or the proposed change of fare, charge, classification, regulation or practice, is just and  
34 reasonable, shall be upon the motor carrier making application for such change. Any suspension  
35 of a rate, charge classification, regulation or practice under this subsection shall not extend

36 beyond such time that a decision in the case is reached or a period of 60 days beyond the time  
37 when such rate, charge, classification, regulation or practice would otherwise go into effect,  
38 whichever is earlier. The hearing on any case held pursuant to this subsection shall be completed  
39 within 60 days of the schedule being filed with the commission and when all evidence shall have  
40 been taken, and the hearing completed, the commission shall, within 30 days, render a decision  
41 in such case or the rate shall automatically be approved. The commission may extend the time in  
42 which to complete a hearing by an additional 30 days if a motor carrier has failed to provide  
43 material information requested by the commission more than 30 days in advance of the hearing.

44 (d) *Water Sewer Trash Index rate change* – Effective July 1, 2020, solid waste motor  
45 carriers shall be permitted to increase rates for the collection and/or hauling of solid waste once  
46 on January 1, of each year without the filing an application for approval by the commission and  
47 such increase shall be considered just and reasonable and not unfairly discriminatory, prejudicial  
48 or preferential if: (1) The carrier complies with the notice requirements of subsection (a) above;  
49 and (2) the percentage of the increase over the prior rate is equal to or less than the percentage  
50 of any increase in the United States Department of Labor Bureau of Labor Statistics Waste Sewer  
51 Trash Index (WST Index) from January 1, of the preceding year. Any rate increase that a motor  
52 carrier believes is at or below the aforementioned increase in the WST Index shall be identified  
53 as such when filed with the commission. Such rate increases shall be subject to challenge by the  
54 commission only if it determines that the increase is in fact in excess of the amount of the increase  
55 in the WST Index for the relevant time period. If the commission determines a rate increase filed  
56 pursuant to this subsection is in excess of the increase in the WST Index for the relevant time  
57 period, it may enter an order suspending the rate increase consistent with subsection (c) above.  
58 If such an order is entered, the motor carrier shall be entitled to a hearing pursuant to the process  
59 authorized in subsection (c) above. Notwithstanding any provision to the contrary, the fact that a  
60 solid waste motor carrier has already raised its rates in a given year pursuant to this subsection  
61 shall not preclude that carrier from applying for and receiving from the commission a rate increase

62 pursuant to subsection (c) of this section: *Provided*, That the commission shall take into account  
63 the prior rate increase taken pursuant to this subsection when considering the carrier's application  
64 to increase rates.

65 (e) The commission shall prescribe such rules and regulations as to the giving of notice of  
66 a change in rates pursuant to this section as are reasonable and are deemed proper in the public  
67 interest.

**§24A-5-2b. Authorizing solid waste motor carriers to require certain customers to pool  
solid waste for collection.**

1 Notwithstanding any provision of this code to the contrary, effective July 1, 2020, solid  
2 waste motor carriers servicing areas where road conditions or other circumstances pose a threat  
3 to the safety and security of motor carrier personnel and property may, for a period not to exceed  
4 90 days, temporarily require customers in those areas to deliver their solid waste to a central  
5 location designated by the motor carrier for collection. No such designated central collection  
6 location shall be more than five miles from an affected customer. Solid waste motor carriers shall  
7 provide notice to affected customers of these designated central collection locations by means of  
8 a bill insert, separately mailed statement, or a posting on the carrier's website or social media that  
9 plainly states the location of the central collection point, the reason or the need for the central  
10 collection point, and those circumstances that will trigger use of the central collection points or  
11 the period(s) of time they will be in use. Any carrier that provides its customers notice consistent  
12 with the foregoing provisions and also provides advance notice to the commission shall not be  
13 considered in violation of the law, commission rules, or the obligations under its certificate as a  
14 result of the deviation from its standard collection practices authorized by this section and likewise  
15 shall not be subject to customer complaints based on the same. If a solid waste motor carrier  
16 wishes to extend beyond 90 days the period in which customers must deliver their solid waste to  
17 a central location or impose such a requirement on customers that had been subject to such a  
18 requirement by the carrier within the preceding 12-month period, the carrier must first obtain



19 permission from the commission after submitting a request in writing that provides a justification  
20 for the relief sought and that the commission must act upon such request within 14 days of  
21 receiving it.

**ARTICLE 6. DUTIES AND PRIVILEGES OF MOTOR CARRIERS SUBJECT TO  
REGULATION OF THE COMMISSION.**

**§24A-6-1. Adequate facilities; safety appliances; discontinuance or change; interchange  
of traffic; joint use of terminal facilities.**

1       (a) Every motor carrier subject to this chapter shall establish and maintain adequate and  
2 suitable facilities, safety appliances, and other suitable appliances and shall perform such service  
3 in respect thereto as shall be reasonably safe and sufficient for the security and convenience of  
4 the public, and the safety and comfort of its employees and in all respects just and fair, and without  
5 any unjust discrimination or preference. Every motor carrier may be required by the commission  
6 to establish and maintain such suitable public service facilities and conveniences as may be  
7 reasonable and just. No motor carrier shall discontinue any regular passenger or other public  
8 service facility, or change any passenger schedule or timetable without first obtaining authority  
9 from the commission so to do, unless the same be done under uniform rules and regulations filed  
10 by such motor carrier with the public service commission and approved by said commission;  
11 Provided, That notwithstanding any provision of this code to the contrary, effective July 1, 2020,  
12 motor carriers may discontinue, without prior commission approval, solid waste collection and/or  
13 hauling services to a given area, as long as the carrier seeking to discontinue service first provides  
14 90 days written notice to the commission and to its customers of its intent to discontinue service  
15 in the affected area and another motor carrier possessing one or more certificates of public  
16 convenience and necessity from the commission first consents to one of its certificates being  
17 modified by the commission to include the area in which the departing carrier is seeking to  
18 discontinue service at or below the same rates as the motor carrier discontinuing service;  
19 Provided, however, That such notice shall include the services to be discontinued, the area(s) to

20 be affected by the discontinuance, the date of the proposed discontinuance of service and shall  
21 be made by one of the following: a bill insert, separately mailed statement or post card, or website  
22 or social media posting. All motor carriers subject to this chapter shall, according to their  
23 respective powers and facilities, afford all reasonable, proper, and equal facilities for the  
24 interchange of traffic between their respective lines, and for the receiving, forwarding, and delivery  
25 of passengers and property to and from their several lines, and those connecting therewith,  
26 including common carriers not subject to this chapter, and shall not discriminate in their rates and  
27 charges or methods or manner of service between such connecting lines. The commission may  
28 require such interchange of traffic and the joint use of terminal facilities as may be reasonable  
29 and just.

30 (b) The commission shall prescribe such rules and regulations as to the giving of notice of  
31 the discontinuance of solid waste collection and hauling pursuant to this section as are reasonable  
32 and are deemed proper in the public interest.

NOTE: The purpose of this bill is to modernize the Public Service Commission's regulation of solid waste motor carriers and solid waste facilities.

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