

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 122

By Senators Martin, Roberts, Phillips, Stover, and

Maynard

[Introduced January 11, 2023; referred
to the Committee on Government Organization; and
then to the Committee on Finance]

1 A BILL to amend and reenact §24-3-2 of the Code of West Virginia, 1931, as amended, relating to
2 preventing public water and sewer utilities from prohibiting a customer from constructing,
3 installing, or maintaining a connection or other infrastructure necessary for the customer to
4 connect to the public utility to receive service if certain requirements are met; and
5 specifying requirements and involvement of the Public Service Commission.

Be it enacted by the Legislature of West Virginia:

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

§24-3-2. Discrimination prohibited.

1 (a) No public utility subject to the provisions of this chapter ~~shall~~ may, directly or indirectly,
2 by any special rate, rebate, drawback or other device or method, charge, demand, collect, or
3 receive from any person, firm, or corporation, a greater or less compensation, for any service
4 rendered or to be rendered, than it charges, demands, collects, or receives from any other person,
5 firm, or corporation for doing a like and contemporaneous service under the same or substantially
6 similar circumstances and conditions.

7 (b) It ~~shall be~~ is unlawful for any public utility subject to the provisions of this chapter to
8 make or give any undue or unreasonable preference or advantage to any particular person,
9 company, firm, corporation or locality, or any particular character of traffic or service, in any respect
10 whatsoever, or to subject any particular person, firm, corporation, company or locality, or any
11 particular character of traffic or service, to any undue or unreasonable prejudice or disadvantage
12 in any respect whatsoever.

13 (c) No public service district or municipality that owns and operates a water or sewer public
14 utility may prohibit a customer or contractor of a customer, at the customer's expense, from
15 constructing, installing, or maintaining any connections, extensions, or other infrastructure
16 necessary for the customer to connect to the public utility if all the following requirements are met:

17 (1) The customer or the utility shall file an extension agreement with the commission in
18 accordance with the rules of the commission and obtain commission approval prior to executing or
19 implementing the agreement. The commission may specify that the actual connection to the public
20 utility be made by the public utility or in the presence of the public utility if the commission deems
21 so reasonably necessary to protect public utility assets or the public.

22 (2) The customer's plans and all work pursuant thereto shall meet and may, but need not,
23 exceed the public utility's standards and practices: *Provided*, That the commission may, upon
24 request by the customer or public utility, do any or all of the following:

25 (A) Negate any standards and practices not set forth in state or federal law that the
26 commission deems unreasonable or discriminatory;

27 (B) Impose reasonable standards and practices that protect the public utility's assets.

28 (3) The customer or customer's contractors, if any, performing the work shall meet and
29 may, but need not, exceed those qualifications required by the public utility for the applicable type
30 of work: *Provided*, That the commission may, upon request by the customer or public utility, do any
31 or all of the following:

32 (A) Negate any qualifications not set forth in state or federal law that the commission
33 deems unreasonable or discriminatory;

34 (B) Impose reasonable qualifications on the customer or customer's contractors, if any,
35 performing the work that protect the public utility's assets;

36 (C) Approve any customer or contractor the commission deems qualified to perform such
37 work and responsible: *Provided*, That the commission may impose such obligations upon any
38 customer or contractor it deems necessary to protect the public utility's assets.

39 (4) The customer shall submit plans concerning all public utility construction, installations,
40 extensions, and connections to the applicable public service district or municipality at least 30
41 days prior to any connection to the public utility or any other work that could affect the public utility.

42 (5) The customer shall make all stages of work relating to the public utility available for
43 inspection by the public service district or municipality at the public utility's expense.

44 (6) The customer shall share the final construction plans, if any, with the public utility; and

45 (7) The customer or owner shall, upon completion of construction and connection to the
46 public utility, transfer ownership of such connections, extensions, property, plants, rights-of-way,
47 and easements to the public utility: *Provided*, That no transfer of ownership must be accepted by a
48 public utility past any service meter.

49 ~~(d)~~ Nothing in This section shall be construed to does not prevent the commission from:

50 ~~(a)~~ (1) Authorizing or requiring any rate design consistent with the purposes and policies
51 set forth in §24-2A-1 *et seq.* of this code; or

52 ~~(b)~~ (2) Authorizing a private water, sewer, or combined water and sewer utility to voluntarily
53 implement a rate design featuring reduced rates and charges for service to qualifying low-income
54 residential customers.

NOTE: The purpose of this bill is to prevent public water and sewer utilities from prohibiting a customer from constructing, installing, or maintaining a connection or other infrastructure necessary for the customer to connect to the public utility to receive service if certain requirements are met.

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