

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 790

**FISCAL
NOTE**

By Senator Maynard

[Introduced March 17, 2025; referred
to the Committee on Government Organization; and
then to the Committee on Finance]

1 A BILL to amend and reenact §16-13A-1a, §24-1-1, and §24-1-3 of the Code of West Virginia,
2 1931, as amended, relating to increasing the oversight and regulatory authority of the
3 Public Service Commission over public service districts; and providing for structured
4 guidelines, mandatory auditing, continuing education requirements, regular inspections,
5 and funding transparency.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 13A. PUBLIC SERVICE DISTRICTS.

§16-13A-1a. Jurisdiction and duties and responsibilities of the Public Service Commission.

1 The jurisdiction of the Public Service Commission relating to public service districts shall
2 be expanded to include the following powers and the powers shall be in addition to all other
3 powers of the Public Service Commission set forth in this code:

4 (a) To study, modify, approve, deny or amend the plans created under §16-13A-1b of this
5 code for consolidation or merger of public service districts and their facilities, personnel or
6 administration;

7 (b) To petition the appropriate circuit court for the removal of a public service district board
8 member or members; and

9 (c) To create by general order a separate division within the Public Service Commission to
10 provide assistance to public service districts in technological, operational, financial and regulatory
11 matters, including, upon written request of the public service board, assistance to the board in
12 deliberations regarding a proposed rate change or project.

13 (a) Each Public Service District shall comply with the enhanced oversight provisions
14 outlined in §24-1-3 of this code, including but not limited to:

15 1. Adopting and implementing PSC-approved operational guidelines.

16 2. Submitting to mandatory biennial audits and annual financial transparency reports.

17 3. Ensuring that board members and senior management complete the required
18 continuing education programs.

19 4. Allowing the PSC to conduct scheduled and unscheduled inspections as needed.

20 (b) Any Public Service District failing to comply with the provisions of this article may be
21 subject to fines, corrective action requirements, and potential management restructuring as
22 determined by the PSC.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 1. GENERAL PROVISIONS.

**§24-1-1. Legislative findings purpose and policy; plan for internal reorganization;
promulgation of plan as rule; cooperation with Joint Committee on Government and
Finance.**

1 (a) It is the purpose and policy of the Legislature in enacting this chapter to confer upon the
2 Public Service Commission of this state the authority and duty to enforce and regulate the
3 practices, services and rates of public utilities in order to:

4 (1) Ensure fair and prompt regulation of public utilities in the interest of the using and
5 consuming public;

6 (2) Provide the availability of adequate, economical and reliable utility services throughout
7 the state;

8 (3) Encourage the well-planned development of utility resources in a manner consistent
9 with state needs and in ways consistent with the productive use of the state's energy resources,
10 such as coal;

11 (4) Ensure that rates and charges for utility services are just, reasonable, applied without
12 unjust discrimination or preference, applied in a manner consistent with the purposes and policies
13 set forth in §24-2A-1 et seq. of this code and based primarily on the costs of providing these
14 services;

(5) Encourage energy conservation and the effective and efficient management of regulated utility enterprises; and

(6) Encourage removal of artificial barriers to rail carrier service, stimulate competition, stimulate the free flow of goods and passengers throughout the state and promote the expansion of the tourism industry, thereby improving the economic condition of the state.

(b) The Legislature creates the Public Service Commission to exercise the legislative powers delegated to it. The Public Service Commission is charged with the responsibility for appraising and balancing the interests of current and future utility service customers, the general interests of the state's economy and the interests of the utilities subject to its jurisdiction in its deliberations and decisions.

(c) The Legislature directs the Public Service Commission to identify, explore and consider the potential benefits or risks associated with emerging and state-of-the-art concepts in utility management, rate design and conservation. The commission may conduct inquiries and hold hearings regarding such concepts in order to provide utilities subject to its jurisdiction and other interested persons the opportunity to comment and shall report to the Governor and the Legislature regarding its findings and policies to each of these areas not later than the first day of the regular session of the Legislature in the year 1985, and every two years thereafter.

(d) It is legislative policy to ensure that the Legislature and the general public become better informed regarding the regulation of public utilities in this state and the conduct of the business of the Public Service Commission. To aid in the achievement of this policy, the Public Service Commission annually shall present to the Joint Committee on Government and Finance, created by §4-3-1 *et seq.* of this code, or a subcommittee designated by the joint committee, a management summary report which describes in a concise manner:

(1) The major activities of the commission for the year especially as such activities relate to the implementation of the provisions of this chapter;

(2) Important policy decisions reached and initiatives undertaken during the year;

41 (3) The current balance of supply and demand for natural gas and electric utility services in
42 the state and forecast of the probable balance for the next 10 years; and

43 (4) Other information considered by the commission to be important including
44 recommendations for statutory reform and the reasons for such recommendations.

45 (e) In addition to any other studies and reports required to be conducted and made by the
46 Public Service Commission pursuant to any other provision of this section, the commission shall
47 study and initially report to the Legislature no later than the first day of the regular session of the
48 Legislature in the year 1980 upon:

49 (1) The extent to which natural gas wells or wells heretofore supplying gas utilities in this
50 state have been capped off or shut in; the number of such wells; their probable extent of future
51 production and the reasons given and any justification for capping off or shutting in such wells; the
52 reasons, if any, why persons engaged or heretofore engaged in the development of gas wells in
53 this state or the Appalachian areas have been discouraged from drilling, developing or selling the
54 production of such wells; and whether there are fixed policies by any utility or group of utilities to
55 avoid the purchase of natural gas produced in the Appalachian region of the United States
56 generally and in West Virginia specifically.

57 (2) The extent of the export and import of natural gas utility supplies in West Virginia.

58 (3) The cumulative effect of the practices mentioned in subdivisions (1) and (2) of this
59 subsection upon rates theretofore and hereafter charged gas utility customers in West Virginia. In
60 carrying out the provisions of this section the commission shall have jurisdiction over such
61 persons, whether public utilities or not, as may be in the opinion of the commission necessary to
62 the exercise of its mandate and may compel attendance before it, take testimony under oath and
63 compel the production of papers or other documents. Upon reasonable request by the
64 commission, all other state agencies shall cooperate with the commission in carrying out the
65 provisions and requirements of this subsection.

66 (f) No later than the first day of the regular session of the Legislature in the year 1980, the

Public Service Commission shall submit to the Legislature a plan for internal reorganization which plan shall specifically address the following:

(1) A division within the Public Service Commission which shall include the office of the commissioners, the hearing examiners and such support staff as may be necessary to carry out the functions of decision making and general supervision of the commission, which functions shall not include advocacy in cases before the commission;

(2) The creation of a division which shall act as an advocate for the position of and in the interest of all customers;

(3) The means and procedures by which the division to be created pursuant to the provisions of subdivision (2) of this subsection shall protect the interests of each class of customers and the means by which the commission will assure that such division will be financially and departmentally independent of the division created by subdivision (1) of this subsection;

(4) The creation of a division within the Public Service Commission which shall assume the duties and responsibilities now charged to the commissioners with regard to motor carriers which division shall exist separately from those divisions set out in subdivisions (1) and (2) of this subsection and which shall relieve the commissioners of all except minimal administrative responsibilities as to motor carriers and which plan shall provide for a hearing procedure to relieve the commissioners from hearing motor carrier cases;

(5) Which members of the staff of the Public Service Commission shall be exempted from the salary schedules or pay plan adopted by the Civil Service Commission and identify such staff members by job classification or designation, together with the salary or salary ranges for each such job classification or designation;

(6) The manner in which the commission will strengthen its knowledge and independent capacity to analyze key conditions and trends in the industries it regulates extending from general industry analysis and supply-demand forecasting to continuing and more thorough scrutiny of the capacity planning, construction management, operating performance and financial condition of

the major companies within these industries.

~~Such~~ The plan shall be based on the concept that each of the divisions mentioned in subdivisions (1), (2) and (4) of this subsection shall exist independently of the others and the plan shall discourage ex parte communications between them by such means as the commission shall direct, including, but not limited to, separate clerical and professional staffing for each division. Further, the Public Service Commission is directed to incorporate within the said plan to the fullest extent possible the recommendations presented to the subcommittee on the Public Service Commission of the Joint Committee on Government and Finance in a final report dated February, 1979, and entitled A Plan for Regulatory Reform and Management Improvement.

The commission shall, before January 5, 1980, adopt said plan by order, which order shall promulgate the same as a rule of the commission to be effective upon the date specified in said order, which date shall be no later than December 31, 1980. Certified copies of such order and rule shall be filed on the first day of the 1980 regular session of the Legislature, by the chairman of the commission with the clerk of each house of the Legislature, the Governor and the Secretary of State. The chairman of the commission shall also file with the office of the Secretary of State the receipt of the clerk of each house and of the Governor, which receipt shall evidence compliance with this section.

Upon the filing of a certified copy of such order and rule, the clerk of each house of the Legislature shall report the same to their respective houses and the presiding officer thereof shall refer the same to appropriate standing committee or committees.

Within the limits of funds appropriated therefor, the rule of the Public Service Commission shall be effective upon the date specified in the order of the commission promulgating it unless an alternative plan be adopted by general law or unless the rule is disapproved by a concurrent resolution of the Legislature adopted prior to adjournment sine die of the regular session of the Legislature to be held in the year 1980: *Provided*, That if such rule is approved in part and disapproved in part by a concurrent resolution of the Legislature adopted prior to such

adjournment, such rule shall be effective to the extent and only to the extent that the same is approved by such concurrent resolution.

The rules promulgated and made effective pursuant to this section shall be effective notwithstanding any other provisions of this code for the promulgation of rules or regulations.

(g) The Public Service Commission is hereby directed to cooperate with the Joint Committee on Government and Finance of the Legislature in its review, examination and study of the administrative operations and enforcement record of the Railroad Safety Division of the Public Service Commission and any similar studies.

(h) (1) The Legislature hereby finds that rates for natural gas charged to customers of all classes have risen dramatically in recent years to the extent that such increases have adversely affected all customer classes. The Legislature further finds that it must take action necessary to mitigate the adverse consequences of these dramatic rate increases.

(2) The Legislature further finds that the practices of natural gas utilities in purchasing high-priced gas supplies, in purchasing gas supplies from out-of-state sources when West Virginia possesses abundant natural gas, and in securing supplies, directly or indirectly, by contractual agreements including take-or-pay provisions, indefinite price escalators or most-favored nation clauses have contributed to the dramatic increase in natural gas prices. It is therefore the policy of the Legislature to discourage such purchasing practices in order to protect all customer classes.

(3) The Legislature further finds that it is in the best interests of the citizens of West Virginia to encourage the transportation of natural gas in intrastate commerce by interstate or intrastate pipelines or by local distribution companies in order to provide competition in the natural gas industry and in order to provide natural gas to consumers at the lowest possible price.

(i) The Legislature further finds that transactions between utilities and affiliates are a contributing factor to the increase in natural gas and electricity prices and tend to confuse consideration of a proper rate of return calculation. The Legislature therefore finds that it is imperative that the Public Service Commission have the opportunity to properly study the issue of

proper rate of return for lengthy periods of time and to limit the return of a utility to a proper level when compared to return or profit that affiliates earn on transactions with sister utilities.

(j) The Legislature further finds that water and sewer utilities that are political subdivisions of the state providing separate or combined services and having at least 4,500 customers and annual gross revenues of \$3 million or more are most fairly and effectively regulated by the local governing body with respect to rates, borrowing and capital projects. Therefore, notwithstanding any contrary provisions of this section, the jurisdiction of the Public Service Commission over water and sewer utilities that are political subdivisions of the state is limited to that granted specifically in this code.

(k) The Legislature further finds that an adequate cash working capital fund is essential to allow water and sewer utilities that are political subdivisions of the state to deliver continuous and compliant service. Therefore, these utilities shall maintain a working capital reserve in an amount of no less than one eighth of actual annual operation and maintenance expense. This reserve shall be separate and distinct from and in addition to any repair and replacement fund that may be required by bond covenants.

(a) The Legislature finds that Public Service Districts provide critical utility services to West Virginians, including water, sewer, and gas. Proper oversight is necessary to ensure financial accountability, regulatory compliance, and operational efficiency.

(b) The purpose of this article is to strengthen the role of the Public Service Commission (PSC) by establishing clear structural guidelines, auditing requirements, continuing education mandates, inspection protocols, and financial reporting standards for Public Service Districts to improve service reliability and public trust.

§24-1-3. Commission continued; membership; chairman; compensation; quorum Powers and duties of the commission.

(a) The Public Service Commission of West Virginia is continued and directed as provided by this chapter, Chapter 24A, Chapter 24B, and Chapter 24D of this code. The Public Service

3 Commission may sue and be sued by that name.

4 (b) The Public Service Commission shall consist of three members who shall be appointed
5 by the Governor, with the advice and consent of the Senate. The commissioners shall be citizens
6 and residents of this state and at least one of them shall be duly licensed to practice law in West
7 Virginia, with not less than 10 years' actual work experience in the legal profession as a member of
8 a State Bar.

9 (c) No more than two of the commissioners shall be members of the same political party.

10 (d) Each commissioner shall, before entering upon the duties of his or her office, take and
11 subscribe to the oath provided by section five, article IV of the Constitution of West Virginia. The
12 oath shall be filed in the office of the Secretary of State.

13 (e) The Governor shall designate one of the commissioners to serve as chairman at the
14 Governor's will and pleasure. The chairman shall be the chief administrative officer of the
15 commission. The Governor may remove any commissioner only for incompetency, neglect of duty,
16 gross immorality, malfeasance in office or violation of subsections (g) and (h) of this section.

17 (f) Upon expiration of the terms, appointments are for terms of six years, except that an
18 appointment to fill a vacancy is for the unexpired term only.

19 (g) No person while in the employ of, or holding any official relation to, any public utility
20 subject to the provisions of this chapter or holding any stocks or bonds of a public utility subject to
21 the provisions of this chapter or who is pecuniarily interested in a public utility subject to the
22 provisions of this chapter may serve as a member of the commission or as an employee of the
23 commission.

24 (h) Nor may any commissioner be a candidate for or hold public office or be a member of
25 any political committee while acting as a commissioner; nor may any commissioner or employee
26 of the commission receive any pass, free transportation or other thing of value, either directly or
27 indirectly, from any public utility or motor carrier subject to the provisions of this chapter. In case
28 any of the commissioners becomes a candidate for any public office or a member of any political

committee, the Governor shall remove him or her from office and shall appoint a new commissioner to fill the vacancy created.

(i) The annual salary of each commissioner provided in §6-7-2a of this code shall be paid at least twice per month from the special funds in the percentages that follow:

(1) From the Public Service Commission Fund collected under the provisions of §24-3-6 of this code, 80 percent;

(2) From the Public Service Commission Motor Carrier Fund collected under the provisions of §24A-53 of this code, 17 percent; and

(3) From the Public Service Commission Gas Pipeline Safety Fund collected under the provisions of §24B-5-3 of this code, three percent.

(j) In addition to the salary provided for all commissioners in §6-7-2a of this code, the chairman of the commission shall receive \$5,000 per annum to be paid at least twice per month from the Public Service Commission Fund collected under the provisions of §24-3-6, of this code.

In addition to its existing powers, the Public Service Commission shall:

(1) Establish Structural Guidelines -- Develop and enforce operational, financial, and administrative guidelines for Public Service Districts, ensuring standardized management practices across the state.

(2) Mandatory Auditing -- Require all Public Service Districts to undergo an independent financial and operational audit every two years, with findings reported to the PSC and made available for public review.

(3) Continuing Education -- Require all Public Service District board members and senior management to complete at least six hours of continuing education annually, focusing on financial management, regulatory compliance, and operational best practices.

(4) Inspections and Compliance Reviews -- Conduct unannounced and scheduled inspections of Public Service Districts at least once every three years, evaluating financial stability, service reliability, infrastructure condition, and regulatory adherence.

55 (5) Funding Transparency -- Mandate that all Public Service Districts submit annual reports
56 detailing revenue sources, expenditures, outstanding debts, and infrastructure investment plans
57 to the PSC. These reports shall be published online for public access.

58 (6) Corrective Actions -- Grant the PSC authority to recommend corrective actions, require
59 additional training, or appoint temporary oversight personnel for districts found to be in chronic
60 non-compliance with state regulations.

61 (7) Funding and Assistance Programs --" Establish a resource center within the PSC to
62 assist Public Service Districts in identifying and applying for federal, state, and private
63 infrastructure funding opportunities.

NOTE: The purpose of this bill is to ensure that Public Service Districts in West Virginia operate with greater transparency, accountability, and efficiency under the enhanced oversight of the Public Service Commission.

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