

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 797

By Senator Hart

[Introduced March 18, 2025; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §22-31-2 of the Code of West Virginia, 1931, as amended; and to
2 amend the code by adding four new sections, designated §22-31-3, §22-31-4, §22-31-5,
3 and §22-31-6, relating to public water systems and improving and protecting supply
4 therefrom; planning, reporting, and communications of such systems, public service
5 districts, and the Public Service Commission; providing for definitions; requiring plans and
6 telemetry data for tank levels in public water systems; requiring public water systems issue
7 quarterly reports and submit to independent review in certain circumstances; requiring
8 public service districts to assign a communications officer; and requiring the Public Service
9 Commission to present on the shortage of water plant workers and managers.

Be it enacted by the Legislature of West Virginia:

ARTICLE 31. THE PUBLIC WATER SUPPLY PROTECTION ACT.

~~§22-31-2. Public Water System Supply Study Commission.~~ Definitions.

1 ~~(a) There is hereby established the Public Water System Supply Study Commission which~~
2 ~~is created for the purpose of studying and reporting back to the Joint Committee on Government~~
3 ~~and Finance on the following subject matters:~~

4 ~~(1) A review and assessment of the effectiveness and the quality of information contained~~
5 ~~in updated source water protection plans required for certain public water systems by the~~
6 ~~provisions of section nine-c, article one, chapter sixteen of this code;~~

7 ~~(2) A review and assessment of the effectiveness of legislation enacted during the 2014~~
8 ~~Regular Session of the West Virginia Legislature, as it pertains to assisting public water systems in~~
9 ~~identifying and reacting or responding to identified potential sources of significant contamination,~~
10 ~~and increasing public awareness and public participation in the emergency planning and response~~
11 ~~process;~~

12 ~~(3) The extent of available financing and funding alternatives which are available to~~
13 ~~existing public water systems to pursue projects which are designed to create alternate sources of~~
14 ~~supply or increased stability of supply in the event of a spill, release or contamination event which~~

impairs the water system's primary source of supply;

(4) A review and consideration of the recommendations of the U. S. Chemical Safety and Hazard and Investigation Board after its investigation of the Bayer Crop Science incident of 2008; and

(5) Any recommendations or suggestions the study commission may offer to improve the infrastructure of existing public water systems, to provide safe and reliable sources of supplies, and to pursue other measures designed to protect the integrity of public water service.

(b) The study commission shall consist of the following twelve members, who shall be appointed and comprised as follows:

(1) Four members appointed by the Governor, one of whom shall be a professional engineer experienced in the design and construction of public water systems; one of whom shall be a hydrologist or other expert experienced in determining the flow characteristics of rivers and streams; one of whom shall be an environmental toxicologist or other public health expert who is familiar with the impact of contaminants on the human body; and one citizen representative;

(2) One representative designated by the Rural Water Association;

(3) One representative designated by the Municipal League;

(4) The Secretary of the Department of Environmental Protection or his or her designee;

(5) The Commissioner of the Bureau for Public Health or his or her designee who shall serve as chair;

(6) The Director of the Division of Homeland Security and Emergency Management or his or her designee;

(7) The Chairman of the Public Service Commission or his or her designee;

(8) Two representatives designated by the Business Industry Council; and

(9) One representative designated by West Virginia Rivers Coalition.

(c) Reports by the Commission shall be submitted to the Joint Committee on Government and Finance on or before December 15 of each year, beginning December 15, 2014.

~~(d) The study commission shall terminate on June 30, 2019.~~

For purposes of this article:

(1) "Aboveground water storage tank" or "tank" or "AWST" means a device made to contain an accumulation of more than 1,320 gallons of drinking water, which is constructed primarily of nonearthen materials, including concrete, steel, plastic, or fiberglass reinforced plastic, which provide structural support, more than 90 percent of the capacity of which is above the surface of the ground, and includes all ancillary pipes and dispensing systems up to the first point of isolation. The term includes stationary devices which are permanently affixed, and mobile devices which remain in one location on a continuous basis for 365 or more days.

(2) "Department" means the West Virginia Department of Environmental Protection.

(3) "Governing body" means the political subdivision with the authority to appoint board members of the public service district.

(4) "Operator" means any person in control of, or having responsibility for, the daily operation of an aboveground water storage tank.

(5) "Owner" means a person who holds title to, controls, or owns an interest in an aboveground water storage tank, including the owner immediately preceding the discontinuation of its use. "Owner" does not mean a person who holds an interest in a tank for financial security unless the holder has taken possession of and operated the tank.

(6) "Person", "persons", or "people" means any individual, trust, firm, owner, operator, corporation, or other legal entity, including the United States government, an interstate commission or other body, the state or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Department of Environmental Protection.

(7) "Public groundwater supply source" means a primary source of water supply for a public water system which is directly drawn from a well, underground stream, underground reservoir, underground mine, or other primary sources of water supplies which are found underneath the surface of the state.

(8) "Public surface water supply source" means a primary source of water supply for a public water system which is directly drawn from rivers, streams, lakes, ponds, impoundments, or other primary sources of water supplies which are found on the surface of the state.

(9) "Public surface water influenced groundwater supply source" means a source of water supply for a public water system which is directly drawn from an underground well, underground river or stream, underground reservoir, or underground mine, and the quantity and quality of the water in that underground supply source is heavily influenced, directly or indirectly, by the quantity and quality of surface water in the immediate area.

(10) "Public water system" means:

(A) Any public service district or municipal entity which regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of 25 individuals per day for at least 60 days per year, or which has at least 15 service connections, and shall include:

(i) Any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system and used primarily in connection with the system; and

(ii) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

(B) A public water system does not include a bathhouse located on coal company property solely for the use of its employees or a system which meets all of the following conditions:

(i) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(ii) Obtains all of its water from, but is not owned or operated by, a public water system which otherwise meets the definition;

(iii) Does not sell water to any person; and

(iv) Is not a carrier conveying passengers in interstate commerce.

(11) "Secretary" means the Secretary of the Department of Environmental Protection, or his or her designee.

(12) "Telemetry system" means a system capable of transmitting data.

§22-31-3. Water level status plan for aboveground water storage tanks.

(a) For all aboveground water storage tanks, a plan shall be created by the owner to establish timely situational awareness of tank levels throughout each public water system, with status updates concerning water levels occurring no less than twice per day for tanks not equipped with telemetry. Where feasible, such plan shall utilize telemetry to increase situational awareness and operational efficiencies. Where telemetry is determined infeasible by the public water system, the plan shall take into consideration the topography, geography, and other factors relevant to the area served and provide adequate transportation equipment and staffing to collect timely tank measurements. Such plan shall be completed by July 1, 2027. Access to all available telemetry data must be provided to each public service district or municipal water manager and board member as well as members of the governing body and county emergency office.

(b) Reporting on the implementation of this plan shall be provided annually to the governing body, and to the joint Technology and Infrastructure committee of the Legislature.

§22-31-4. Transparency.

(a) Every public water system shall provide quarterly operational and financial reports to the governing body.

(b) Every public water system shall participate in Open Checkbooks.

(c) When five or more formal non-frivolous complaints are filed against a public water system with the Public Service Commission in one quarter, that systems must submit to a thorough review of financial and operational practices to be conducted by an independent non-governmental organization with expertise in public water systems. Such reviewing entity must have a membership that represents at least 25 percent of the small systems of this State; and has at least five years of experience in providing on-site technical assistance to small public water

10 systems. Any such entity shall be approved by the Public Service Commission to perform such
11 reviews.

§22-31-5. Ensuring public service district communication.

1 Each public service district must assign public communication duties to a specific officer or
2 persons and shall communicate changes of status affecting customers at least every three hours
3 during a service disruption. Each public service district shall utilize communications platforms,
4 such as social media, to keep customers informed during service disruptions and shall provide a
5 call-in number, as well as a recorded message to all customers detailing the nature of the
6 interruption, area effected, and the estimated time of restoration.

§22-31-6. Increasing Availability of Water Workers.

1 The shortage of qualified water plant workers and managers shall be addressed by the
2 Public Service Commission who shall present to the Joint Committee on Government and Finance
3 of the West Virginia Legislature no later than July 1, 2026, a plan for review which:
4 (1) Promotes water careers in schools and vocational technical programs;
5 (2) Boosts community and technical college public works programs; and
6 (3) Reviews what other financial incentives could be provided to ensure sufficient skilled
7 persons to enter the water works field.

NOTE: The purpose of this bill is to create a plan to identify water level status for above ground storage tanks; provide transparency; provide communication from the public service district during service disruption; and create a plan to increase the availability of water workers.

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