

ASSEMBLY, No. 2570

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Assemblyman WAYNE P. DEANGELO

District 14 (Mercer and Middlesex)

SYNOPSIS

Requires BPU to conduct biennial rate cases for public utilities; increases penalties for public utilities failing to comply with BPU orders.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT requiring BPU to conduct biennial rate cases for public
2 utilities and increasing certain penalties, and amending R.S.48:2-
3 21 and R.S.48:2-42.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.48:2-21 is amended to read as follows:

9 48:2-21. Schedule of rates. (a) The board **may** shall require
10 every public utility to file biennially with it complete schedules of
11 every classification employed and of every individual or joint rate,
12 toll, fare, or charge made, charged, or exacted by it for any product
13 supplied or service rendered within this State, as specified in the
14 requirement.

15 Fix rates. (b) The board may after hearing, upon notice, by order
16 in writing:

17 1. Fix just and reasonable individual rates, joint rates, tolls,
18 charges, or schedules thereof, as well as commutation, mileage, and
19 other special rates which shall be imposed, observed, and followed
20 thereafter by any public utility, whenever the board shall determine
21 any existing rate, toll, charge, or schedule thereof, commutation,
22 mileage, or other special rate to be unjust, unreasonable,
23 insufficient, or unjustly discriminatory or preferential. In every
24 such proceeding, the board shall complete and close the hearing
25 within **6** six months and enter its final order within **8** eight
26 months after the filing of the order of the board initiating such
27 proceeding, when such proceeding is on the board's own motion; or
28 after issue is joined through the filing of an answer to a complaint,
29 when such proceeding is initiated by complaint.

30 2. Fix just and reasonable joint rates, which shall be charged,
31 enforced, collected, and observed by railroads and street railroads in
32 the carrying of freight. Whenever the railroads or street railroads
33 involved fail to agree upon the apportionment or division of a joint
34 rate so established, the board may issue a supplemental order
35 declaring the apportionment or division of the joint rate.

36 Demurrage rates. (c) The board may fix the rates or charges to
37 be made by any corporation subject to the provisions of this chapter
38 for the detention of a railroad car containing property transported by
39 railroad to any point in this State or for the use of railroad tracks
40 occupied by such car, commonly called demurrage or car service, or
41 for both such detention and use. Such rates and charges shall
42 conform as nearly as possible to the rates and charges for
43 demurrage or car service prescribed and fixed by the Interstate
44 Commerce Commission, or successor agency, for similar service.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Increase in rates; hearings. (d) When any public utility shall
2 increase any existing individual rates, joint rates, tolls, charges, or
3 schedules thereof, as well as commutation, mileage, and other
4 special rates, or change or alter any existing classification, the
5 board, either upon written complaint or upon its own initiative, shall
6 have power after hearing, upon notice, by order in writing to
7 determine whether the increase, change, or alteration is just and
8 reasonable. The burden of proof to show that the increase, change,
9 or alteration is just and reasonable shall be upon the public utility
10 making the same. The board, pending such hearing and
11 determination, may order the suspension of the increase, change, or
12 alteration until the board shall have approved the same, not
13 exceeding **[4]** four months. If the hearing and determination shall
14 not have been concluded within such **[4]** four months, the board
15 may during such hearing and determination order a further
16 suspension for an additional period not exceeding **[, 4]** four
17 months. The board shall approve the increase, change, or alteration
18 upon being satisfied that the same is just and reasonable.

19 (e) The board shall biennially, either upon written complaint or
20 upon its own initiative, after hearing and upon notice, by order in
21 writing, determine whether any existing individual rates, joint rates,
22 tolls, charges, or schedules thereof, as well as commutation,
23 mileage, and other special rates, for any product or service supplied
24 or rendered by a public utility, are just and reasonable. The burden
25 of proof to show that existing individual rates, joint rates, tolls,
26 charges, or schedules thereof, as well as commutation, mileage, and
27 other special rates, are just and reasonable shall be upon the public
28 utility.

29 (cf: P.L.1962, c.198, s.13)

30

31 2. R.S.48:2-42 is amended to read as follows:

32 48:2-42. **[Any]** a. Notwithstanding the provisions of any law,
33 rule, regulation, or board order to the contrary, any person **[or],**
34 public utility, or other entity subject to the jurisdiction of the board
35 that shall fail to comply with an order of the board **[, except an**
36 order to resume service which has been discontinued,**]** shall be
37 **[subject to a penalty of one hundred dollars for every day during**
38 which the default continues. Any person or public utility that shall
39 fail to comply with any order of the board directing the public
40 utility to resume service which has been discontinued shall be
41 subject to a penalty of two hundred and fifty dollars for every day
42 during which such default continues. Such penalties shall be
43 recovered in an action at law in the name of the state**]** liable for a
44 civil administrative penalty not to exceed \$25,000 for each
45 violation, except that any maximum civil penalty may not exceed
46 \$2,000,000 for any related series of events. Each day during which

1 the violation continues shall constitute an additional, separate, and
2 distinct violation.

3 b. Any civil administrative penalty may be compromised by the
4 board in an amount and with conditions the board deems
5 appropriate. In determining the amount of the penalty, or the
6 amount agreed upon in compromise, the board shall consider: (1)
7 the nature, circumstances, and gravity of the violation; (2) the
8 degree of the violator's culpability; (3) any history of prior
9 violations; (4) any good faith effort on the part of the violator in
10 attempting to achieve compliance; and (5) any other factors the
11 board determines to be appropriate.

12 c. Pursuit of any remedy specified in this section shall not
13 preclude the pursuit of any other remedy.

14 d. Civil administrative penalties may be recovered, if
15 necessary, in a summary proceeding pursuant to the "Penalty
16 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
17 The Superior Court shall have jurisdiction to enforce the provisions
18 of the "Penalty Enforcement Law of 1999" in connection with
19 P.L. , c. (C.) (pending before the Legislature as this bill).

20 e. Notwithstanding any law to the contrary, there is hereby
21 established in the board a nonlapsing, special revenue fund called
22 the "Board of Public Utilities Civil Penalty Fund" into which all
23 penalties imposed or obtained pursuant to P.L. , c. (C.)
24 (pending before the Legislature as this bill) shall be deposited. The
25 moneys in the Board of Public Utilities Civil Penalty Fund shall be
26 used for the improvement of public utility service quality and
27 reliability.

28 f. Consistent with section 1 of P.L.1988, c.100 (C. 48:2-21.14),
29 any civil administrative penalty imposed under P.L. , c. (C.)
30 (pending before the Legislature as this bill) shall not be recoverable
31 from ratepayers.

32 (cf: R.S.48:2-42)

33
34 3. This act shall take effect immediately.
35
36

37 STATEMENT

38
39 This bill requires biennial rate cases and increases certain
40 penalties for public utilities and other entities subject to the
41 jurisdiction of the Board of Public Utilities (BPU).

42 The bill amends existing law to require biennial rate cases for
43 public utilities. Under current law, the BPU may, at its discretion,
44 adjust rates charged by a public utility. The bill amends current law
45 to require the BPU to determine biennially whether public utility
46 rates are just and reasonable.

47 This bill amends existing law to increase civil penalties paid by
48 all public utilities for violating any order of the BPU. Under the

A2570 DEANGELO

5

1 bill, civil penalties are increased from \$100 per day to \$25,000 per
2 day for each violation; however, penalties are not to exceed
3 \$2,000,000 for any series of related events.

4 The bill establishes the “Board of Public Utilities Civil Penalty
5 Fund” in the BPU, into which all penalties collected are to be
6 deposited. The money in the fund is to be used to increase public
7 utilities’ service quality and reliability. Civil penalties are not
8 recoverable from ratepayers under the bill.