

1 AN ACT relating to the Public Service Commission.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) The Public Service Commission shall consist of five (5) members as follows:*

6 *(a) Three (3) members appointed the Governor:*

7 *1. One (1) of whom shall be a licensed attorney who has actively*
8 *practiced law in the Commonwealth for at least seven (7) years;*

9 *2. Two (2) of whom shall have education or training, and five (5) years*
10 *of actual experience, in one (1) or more of the following fields:*

11 *a. Economics;*

12 *b. Engineering;*

13 *c. Accounting;*

14 *d. Finance;*

15 *e. Utility regulation;*

16 *f. Pipeline or utility infrastructure safety;*

17 *g. Business management; or*

18 *h. Environmental management; and*

19 *(b) Two (2) members appointed by the Auditor of Public Accounts:*

20 *1. One (1) of whom shall have at least five (5) years of actual experience*
21 *as a consumer advocate; and*

22 *2. One (1) of whom shall have the same qualifications as required under*
23 *paragraph (a)2. of this subsection.*

24 *(2) No two (2) members of the commission shall have the same occupation or*
25 *profession, and no more than three (3) commissioners shall be of the same*
26 *political party.*

27 *(3) Appointments and reappointments to the commission shall be subject to*

1 confirmation by the Senate as provided in KRS 11.160.

2 (4) The commissioners shall elect one (1) of the commissioners to act as the
3 commission's chair. The chair shall be the chief executive officer of the
4 commission. The chair shall designate one (1) of the commissioners to serve as
5 vice chair to act for the chair in his or her absence.

6 (5) Vacancies for unexpired terms shall be filled in the same manner as the original
7 appointments, but the appointee shall hold office only until the end of the
8 unexpired term and shall be subject to confirmation by the Senate as provided in
9 KRS 11.160.

10 (6) Members of the commission shall serve no more than three (3) terms, but any
11 terms or partial terms served prior to the effective date of this Act shall not be
12 counted toward the term limits established by this subsection.

13 (7) After the initial appointments, a member of the commission shall serve for a term
14 of four (4) years and until a successor is appointed and qualified.

15 (8) Each member of the commission shall be a full-time employee as defined in KRS
16 18A.005.

17 ➔ Section 2. KRS 278.040 is amended to read as follows:

18 (1) The Public Service Commission shall constitute an independent department of
19 state government within the meaning of KRS Chapter 12, and shall be
20 administratively attached to the Energy and Environment Cabinet only for those
21 limited functions and purposes expressly requested by the commission to be
22 performed by the Energy and Environment Cabinet. The commission shall have
23 sole discretion as to which functions shall be deemed necessary for its efficient
24 operation. The commission shall consist of an executive director, five (5)
25 commissioners, and other agents and employees as necessary to carry out its
26 obligations under this chapter.

27 (2) Notwithstanding Section 7 of this Act, the commission may, in its sole discretion,

1 identify and determine the compensation for categories of its professional
2 employees at the amounts it deems necessary to recruit and retain employees who
3 have the experience, expertise, and education required to perform their job
4 responsibilities with the commission.

5 **(3)** The~~[Public Service]~~ commission shall regulate utilities,~~[and]~~ enforce the
6 provisions of this chapter and the rules and administrative regulations
7 promulgated hereunder, and exercise all powers necessary incident thereto. The
8 commission shall be a body corporate, with power to sue and be sued in its
9 corporate name. The commission may adopt a seal bearing the name "Public
10 Service Commission of Kentucky," which seal shall be affixed to all writs and
11 official documents, and to such other instruments as the commission directs, and all
12 courts shall take judicial note of the seal.

13 ~~**(4)**~~~~(2)~~ The jurisdiction of the commission shall extend to all utilities in this state. The
14 commission shall have exclusive jurisdiction over the regulation of rates and
15 service of utilities, but with that exception nothing in this chapter is intended to
16 limit or restrict the police jurisdiction, contract rights or powers of cities or political
17 subdivisions.

18 ~~**(5)**~~~~(3)~~ The commission may adopt, in keeping with KRS Chapter 13A, reasonable
19 administrative regulations to implement the provisions of KRS Chapter 278 and
20 investigate the methods and practices of utilities to require them to conform to the
21 laws of this state, and to all reasonable rules, regulations and orders of the
22 commission not contrary to law.

23 **(6) The commission shall not be subject to reorganization under KRS Chapter 12.**

24 ➔Section 3. KRS 278.060 is amended to read as follows:

25 (1) Each commissioner shall be a resident and qualified voter of this state, not less than
26 twenty-five (25) years of age at the time of his or her appointment and
27 qualification, and shall have resided in this state for at least three (3) years prior to

1 his or her appointment and qualification. Each commissioner shall take and
2 subscribe to the constitutional oath of office, which shall be recorded in the office
3 of the Secretary of State.

4 (2) No person shall be appointed to or hold the office of commissioner who holds, or
5 whose immediate family member holds, any official relationship to any utility, or
6 who owns any stocks or bonds thereof, or who has any pecuniary interest therein,
7 except for a pension or retirement savings account if no contributions have been
8 made to it for at least one (1) year prior to the appointment.

9 (3) No commissioner shall receive any rebate, pass, percentage of contract or other
10 thing of value from any utility.

11 (4) In addition to the restrictions on members of the commission set forth in Section 1
12 of this Act [KRS 278.050(1)], no commissioner shall engage in any occupation or
13 business inconsistent with his duties as such commissioner.

14 (5) If any commissioner becomes a member of any political party committee, his or her
15 office as commissioner shall be thereby vacated.

16 ~~[(6) In making appointments to the commission, the Governor shall consider the various~~
17 ~~kinds of expertise relevant to utility regulation and the varied interests to be~~
18 ~~protected by the commission, including those of consumers as well as utility~~
19 ~~investors, and no more than two (2) members shall be of the same occupation or~~
20 ~~profession.]~~

21 ➔ Section 4. KRS 278.070 is amended to read as follows:

22 The officer who appointed the commissioner [Governor] may remove the [any]
23 commissioner for cause, after giving him or her a copy of the charges against him or her
24 and an opportunity of being publicly heard in person or by counsel in his or her own
25 defense upon not less than ten (10) days' notice. If a commissioner is removed, the officer
26 who appointed the commissioner [Governor] shall file in the office of the Secretary of
27 State a complete statement of all charges against the commissioner and his or her

1 findings thereon, and a complete record of the proceedings. Any commissioner so
2 removed may bring action in the proper court to determine whether or not he or she was
3 legally removed in accordance with this section.

4 ➔Section 5. KRS 278.120 is amended to read as follows:

5 (1) The chair~~[chairman]~~ and the other ~~[two (2)]~~ members of the commission shall be
6 paid a salary fixed under KRS 64.640 to be paid monthly.

7 (2) Notwithstanding Section 7 of this Act, the executive director of the commission
8 shall be paid a salary to be fixed solely by the commission~~[, with the approval of the~~
9 ~~Governor]~~.

10 (3) The commissioners, the executive director, and employees of the commission are
11 entitled to all expenses, including hotel bills, incurred in traveling on business of
12 the commission.

13 (4) The salaries and expenses provided for by this section, and all other expenses of the
14 commission incurred in the administration of this chapter, shall be paid out of
15 appropriations as provided by law out of the general expenditure fund.

16 ➔Section 6. KRS 278.702 is amended to read as follows:

17 (1) There is hereby established the Kentucky State Board on Electric Generation and
18 Transmission Siting. The board shall be composed of nine (9)~~[seven (7)]~~ members
19 as follows:

20 (a) The five (5)~~[three (3)]~~ members of the Kentucky Public Service Commission;

21 (b) The secretary of the Energy and Environment Cabinet or the secretary's
22 designee;

23 (c) The secretary of the Cabinet for Economic Development or the secretary's
24 designee;

25 (d) 1. If the facility subject to board approval is proposed to be located in one
26 (1) county, two (2) ad hoc public members to be appointed by the
27 Governor from a county where a facility subject to board approval is

1 proposed to be located:

2 a. One (1) of the ad hoc public members shall be the chairman of the
3 planning commission with jurisdiction over an area in which a
4 facility subject to board approval is proposed to be located. If the
5 proposed location is not within a jurisdiction with a planning
6 commission, then the Governor shall appoint either the county
7 judge/executive of a county that contains the proposed location of
8 the facility or the mayor of a city, if the facility is proposed to be
9 within a city; and

10 b. One (1) of the ad hoc public members shall be appointed by the
11 Governor and shall be a resident of the county in which the facility
12 is proposed to be located.

13 2. If the facility subject to board approval is proposed to be located in more
14 than one (1) county, two (2) ad hoc public members to be chosen as
15 follows:

16 a. One (1) ad hoc public member shall be the county judge/executive
17 of a county in which the facility is proposed to be located, to be
18 chosen by majority vote of the county judge/executives of the
19 counties in which the facility is proposed to be located; and

20 b. One (1) ad hoc public member shall be a resident of a county in
21 which the facility is proposed to be located, and shall be appointed
22 by the Governor.

23 If a member has not been chosen by majority vote, as provided in
24 subdivision a. of this subparagraph, by thirty (30) days after the filing of
25 the application, the Governor shall directly appoint the member.

26 3. Ad hoc public members appointed to the board shall have no direct
27 financial interest in the facility proposed to be constructed.

- 1 (2) The term of service for the ad hoc members of the board shall continue until the
2 merchant electric generating facility for which they were appointed has been
3 constructed and begins generating electricity for sale or the construction certificate
4 expires. The remaining members of the board shall be permanent members.
- 5 (3) The board shall be attached to the Public Service Commission for administrative
6 purposes. The commission staff shall serve as permanent administrative staff for the
7 board. The members of the board identified in subsection (1)(a) to (d) of this
8 section shall promulgate administrative regulations in accordance with KRS
9 Chapter 13A to implement KRS 278.700 to 278.716.
- 10 (4) No member of the board shall receive any salary or fee for service on the board or
11 shall have any financial interest in any facility the application for which comes
12 before the board, but each member shall be reimbursed for actual travel and
13 expenses directly related to service on the board.
- 14 (5) The ~~chair~~~~[chairman]~~ of the Public Service Commission shall be the
15 ~~chair~~~~[chairman]~~ of the board. The ~~chair~~~~[chairman]~~ shall designate one (1) member
16 of the board as vice ~~chair~~~~[chairman]~~. A majority of the members of the board shall
17 constitute a quorum for the transaction of business. No vacancy on the board shall
18 impair the right of the remaining members to exercise all of the powers of the
19 board. The board shall convene upon the call of the ~~chair~~~~[chairman]~~.
- 20 ➔Section 7. KRS 64.640 is amended to read as follows:
- 21 (1) Except as otherwise provided in subsection (2) of this section, and excepting
22 officers elected by popular vote, employees of the General Assembly, including
23 employees of the Legislative Research Commission, members of boards and
24 commissions, those officers and employees of Kentucky Educational Television
25 exempt from classified service as provided in KRS 18A.115, presidents and
26 employees of the state universities and the state colleges, officers employed by the
27 Department of Kentucky State Police under KRS Chapter 16, ~~employees whose~~

1 compensation is set by the Public Service Commission under subsection (2) of
2 Section 2 of this Act and subsection (2) of Section 5 of this Act, and persons
3 employed by the commissioner of parks on a temporary basis under KRS 148.026,
4 the Personnel Cabinet shall prepare schedules of compensation, payable out of the
5 State Treasury, with a minimum salary rate, and other salary rates as are deemed
6 necessary or advisable, for the office or position of employment of every state
7 officer and employee, including specifically the offices and positions of
8 employment in every constitutional administrative department, statutory
9 administrative department, independent agency, board, commission, or other unit of
10 state government. The language of any statute empowering a board, commission,
11 authority, or other administrative body for which the Personnel Cabinet provides
12 personnel and payroll services, except for any board governing any of the Kentucky
13 Retirement Systems, the County Employees Retirement System, the Kentucky
14 Public Pensions Authority, the Kentucky Higher Education Assistance Authority,
15 the Kentucky Authority for Educational Television, or the Council on
16 Postsecondary Education, to establish, set, or approve the salaries of its
17 administrative head and other employees to the contrary notwithstanding, the
18 establishment or setting of salaries for administrative heads or other employees
19 shall be subject to the approval of the secretary of the Personnel Cabinet. The
20 schedules and rates shall be based upon studies of the duties and responsibilities of
21 the offices and positions and upon a comparison with rates being paid for similar or
22 comparable services elsewhere, and in the preparation of such schedules, the
23 Personnel Cabinet shall ascertain and record the duties, responsibilities, and
24 authority pertaining to the various offices and positions in the state service, and
25 classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110,
26 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become
27 effective until it has been approved by the Governor by executive order.

1 (2) The Governor shall set the compensation payable out of the State Treasury to each
2 officer or position in the state service, which officer or position heads a statutory
3 administrative department, independent agency, or other unit of state government,
4 except for those excluded under subsection (1) of this section. Such compensation
5 shall be based upon studies of the duties and responsibilities and classification of
6 the positions by the Governor and upon a comparison with compensation being paid
7 for similar or comparable services elsewhere, provided, however, such
8 compensation shall not exceed the total taxable compensation of the Governor
9 derived from state sources, the provisions of KRS 64.660 to the contrary
10 notwithstanding. For the purposes of this section, the total taxable compensation of
11 the Governor from state sources shall include the amount provided for
12 compensation to the Governor under KRS 64.480 and any benefits or discretionary
13 spending accounts that are imputed as taxable income for federal tax purposes.

14 (3) The compensation payable out of the State Treasury to officers and employees
15 subordinate to any office or position covered by subsection (2) of this section shall
16 not exceed the maximum rate established pursuant to subsection (2) of this section
17 for such office or position, except with respect to physicians as provided in KRS
18 64.655 and employees of the Public Service Commission **not otherwise exempt**
19 **from the requirements of this section under subsection (2) of Section 2 of this Act**
20 **and subsection (2) of Section 5 of this Act** [of Kentucky] whose compensation shall
21 be fixed, within constitutional limits, by the Personnel Cabinet with the approval of
22 the Governor as provided in subsection (1) of this section.

23 (4) Nothing in this section shall preclude the allowance of maintenance to officers and
24 employees of the state.

25 ➔Section 8. KRS 160.617 is amended to read as follows:

26 Notwithstanding KRS 278.040 **(4)** ~~**(2)**~~, or any other provision to the contrary, any utility,
27 cable service provider, or satellite broadcast and wireless cable service provider required

1 to pay the tax authorized by KRS 160.613 or 160.614 may increase its rates in any school
2 district in which it is required to pay the school tax by the amount of the school tax
3 imposed, up to three percent (3%). Any utility, cable service provider, or satellite {
4 }broadcast and wireless cable service provider so increasing its rates shall separately state
5 on the bills sent to its customers the amount of the increase and shall identify the amount
6 as: "Rate increase for school tax."

7 ➔Section 9. The following KRS section is repealed:

8 278.050 Membership of Public Service Commission -- Appointment -- Terms --
9 Chairman -- Vacancies.

10 ➔Section 10. (1) On or before July 1, 2025, the Auditor of Public Accounts
11 shall appoint one member of the Public Service Commission for a term expiring July 1,
12 2026, and one member of the Public Service Commission for a term expiring July 1,
13 2027.

14 (2) All current members of the Public Service Commission on the effective date
15 of this Act may serve out the remainder of their terms, provided that they meet the
16 qualification requirements in Sections 1 and 3 of this Act. The term of any current
17 member of the Public Service Commission who does not meet the qualification
18 requirements in Sections 1 and 3 of this Act shall be terminated, and the Governor shall
19 appoint a replacement subject to confirmation by the Senate pursuant to Section 1 of this
20 Act.

21 (3) On the effective date of this Act, copies of any records, files, or documents,
22 including legal documents or memoranda, associated with functions of the Public Service
23 Commission that were previously performed by the Energy and Environment Cabinet but
24 for which it is no longer deemed responsible, shall be transmitted to the commission.