

HOUSE BILL 438

By Ragan

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29; Title 59; Title 60; Title 65 and Title 68, relative to the creation of the Tennessee energy policy council.

WHEREAS, energy is essential to the health, safety, and welfare of the people of this State and to the workings of the State economy; and

WHEREAS, it is in the State's best interest to support the development of a reliable and adequate supply of energy for Tennessee that is secure, stable, and predictable in order to facilitate economic growth, job creation, and expansion of business and industry opportunities; and

WHEREAS, it is also in the State's best interest to support the exploration, development, and production of domestic energy supplies, preferably from the resources within the State or region and most certainly from within the country; and

WHEREAS, state government has a duty to protect and preserve the State's natural resources, cultural heritage, and quality of life and, above all, the public health and safety of its residents during the exploration, development, and production of domestic energy resources; and

WHEREAS, it is critical that this State provide the basis for development of a long-range unified energy policy to encompass comprehensive energy resource planning and efficient management of existing energy resources in relation to economic growth, to effectively meet an energy crisis, to encourage development of alternative sources of energy that are capable of achieving a positive benefit-to-cost ratio, and to ensure efficient utilization of energy resources in a manner consistent with assuring a reliable and adequate supply of energy for Tennessee,

including active support and collaboration with the federal government to ensure access to the nation's energy resources; and

WHEREAS, the development of a unified domestic energy policy for the State of Tennessee as part of a nationwide effort for increased domestic energy production is paramount to our national security, and economic growth and stability; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-240(a), is amended by inserting the following as a new, appropriately designated subdivision:

() State energy policy council, created by § 68-204-101;

SECTION 2. Tennessee Code Annotated, Title 68, is amended by adding the following language as a new chapter:

68-204-101. There is created the state energy policy council, to be administratively attached to the department of environment and conservation.

68-204-102. For the purposes of this chapter:

- (1) "Council" means the state energy policy council;
- (2) "Department" means the department of environment and conservation; and
- (3) "OEP" means the office of energy programs within the department.

68-204-103.

(a) The council is created to advise and make recommendations to the governor and to the general assembly on how to:

- (1) Identify all state energy resources to ensure a secure, stable, and more predictable energy supply;
- (2) Manage the use of energy resources; and
- (3) Increase domestic energy exploration, development, and production within the state and region, with the goal of promoting economic growth and job creation while ensuring the protection and preservation of the state's natural resources, cultural heritage, and quality of life.

(b) The council shall have the following general duties and responsibilities:

(1) Compile an annual report assessing the energy sector in this state, including the opportunities and the constraints presented by various uses of energy, to facilitate the expansion of the domestic energy supply, and to encourage the efficient use of all such energy forms in a manner consistent with state energy policy;

(2) Develop an ongoing comprehensive state energy policy plan to achieve maximum effective management and use of present and future sources of energy. The policy may include energy efficiency, renewable and alternative sources of energy, research and development into alternative energy technologies, and improvements to the state's energy infrastructure and energy economy, including smart grid and domestic energy resources that shall include, but not be limited to, natural gas, coal, hydroelectric power, solar, wind, nuclear energy, and biomass;

(3) Create an annual energy policy plan that recommends:

(A) Necessary energy legislation to the governor and to the general assembly;

(B) The promulgation of necessary rules to regulatory boards charged with administering this title; and

(C) The implementation and modification of energy policy, plans, and programs as the council considers necessary and desirable;

(4) Continually review and coordinate all state government research, education, and management programs relating to energy matters; and to educate and inform the general public regarding any energy matters; and

(5) Actively engage in discussions with the federal government, its agencies, and its leaders to identify opportunities to increase domestic energy supply within this state.

(c) Except as otherwise provided in this chapter, the powers, duties, and functions of the council shall be as prescribed by the commissioner of environment and conservation with direct input from the OEP.

(d) The council shall serve as the central energy policy planning body of the state and shall communicate and cooperate with federal, state, regional, and local bodies and agencies for the purpose of affecting a coordinated energy policy.

68-204-104.

(a) The council shall be comprised of thirteen (13) members as follows:

(1) The governor or the governor's designee shall serve as an ex officio, voting member of the council;

(2) The governor shall appoint:

(A) One (1) representative of energy resource extraction or energy production industries, excluding the Tennessee Valley authority, who may be appointed from lists of qualified persons submitted by interested energy resource extraction or energy production industries including, but not limited to, the biofuel, oil and gas, wind, coal, solar energy, geothermal energy, hydropower, and nuclear energy industries.

The governor shall consult with the industries listed in this subdivision

(a)(2)(A) to determine qualified persons to fill the position on the council;

(B) One (1) representative of a commercial, industrial, or agricultural energy consumer; and

(C) One (1) representative of an institution of higher education in this state;

(3) The speaker of the house of representatives shall appoint:

(A) One (1) representative of the energy research and development industry, who may be selected from lists of qualified persons submitted by interested research and development industries, including, but not limited to, the Oak Ridge National Laboratory. The speaker shall consult with the industries described in this subdivision (a)(3)(A) to determine qualified persons to fill the position on the council;

(B) One (1) representative of the Tennessee Valley authority;

(C) One (1) representative of a local distribution utility; and

(D) One (1) representative of a transportation-related industry including, but not limited to, wholesalers, transportation equipment manufacturers, shipping companies, and local transit authorities;

(4) The speaker of the senate shall appoint:

(A) One (1) residential energy user;

(B) One (1) representative of environmental groups, including, but not limited to, the Southern Alliance for Clean Energy; and

(C) One (1) representative who is knowledgeable of and has expertise in energy efficiency and energy conservation as it relates to the built environment, who may be selected from lists of qualified persons submitted by interested parties from the engineering and architectural professions in this state. The speaker shall consult with the professions described in this subdivision (a)(4)(C) to determine qualified persons to fill the position on the council;

(5) The state treasurer or the treasurer's designee shall serve as an ex officio, nonvoting member of the council; and

(6) One (1) nonvoting student member with expertise in energy issues and energy policy who, during the person's tenure as a member of the council, is enrolled as a graduate student in an institution of higher education in this state.

The student member shall be appointed by the council from nominations submitted by university faculty members at such institutions.

(b) In addition to any other requirements for membership on the council, all persons appointed or otherwise named to serve as members of the council shall be bona fide residents of this state, and shall continue to reside in this state during their tenure on the council.

(c)

(1) All appointments to the council shall be made by July 1, 2017.

(2) In order to stagger the terms of the newly appointed council members, initial appointments shall be made as follows:

(A) The members listed in subdivision (a)(2) shall serve initial terms of one (1) year, which shall expire on June 30, 2018;

(B) The members listed in subdivision (a)(3) shall serve initial terms of two (2) years, which shall expire on June 30, 2019; and

(C) The members listed in subdivision (a)(4) shall serve initial terms of three (3) years, which shall expire on June 30, 2020.

(3) The student member appointed pursuant to subdivision (a)(6) shall serve a term of two (2) years, but shall not serve more than two (2) consecutive terms as a member of the council.

(d)

(1) Following the expiration of members' initial terms as prescribed in subdivision (c)(2), all three-year terms shall begin on July 1 and terminate on June 30, three (3) years thereafter.

(2) All members shall serve until the expiration of the term to which they were appointed and until their successors are appointed and qualified.

(3) In case of a vacancy in the membership on the council prior to the expiration of a member's term, a successor shall be appointed within thirty (30) days of the vacancy for the remainder of the unexpired term by the appropriate appointing authority and in the same manner as the original appointment.

(e) The appointing authorities may remove any member of the council for misconduct, incompetency, willful neglect of duty, or other just cause.

(f) Prior to beginning their duties, each member of the council shall take and subscribe to the oath of office provided for state officers.

(g) In making appointments to the council, the appointing authorities shall strive to ensure that the council is composed of persons who are diverse in professional or educational background, ethnicity, race, gender, geographic residency, heritage, perspective, and experience.

68-204-105.

(a) The chair of the council shall be appointed by the governor from among the council's membership, and shall call the first meeting of the council. The chair shall serve in that capacity for one (1) year and shall be eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of the other members.

(b) Each member, upon expiration of the member's term, shall continue to hold office until a successor is appointed.

(c) A majority of those members serving on the council shall constitute a quorum.

(d) Members appointed pursuant to § 68-204-104(a)(2)-(4) shall be eligible for reappointment to the council following the expiration of their terms, but shall serve no more than two (2) consecutive three-year terms.

(e) Members shall receive no compensation for their service on the council, but shall be reimbursed for travel and other necessary expenses incurred in the performance of official duties in accordance with the state comprehensive travel regulations as promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(f) The council shall adopt and implement a conflict of interest policy for its members. The policy shall mandate annual written disclosures of financial interests, other possible conflicts of interest, and an acknowledgement by council members that they have read and understand all aspects of the policy. The policy shall also require persons who are to be appointed to the council to acknowledge, as a condition of appointment, that they are not in conflict with the conditions of the policy.

68-204-106.

(a) To facilitate the work of the council and for administrative purposes, the chair of the council, with the consent and approval of the members, shall organize the work of the council to carry out the requirements of this chapter and to ensure the efficient operation of the council.

(b) The council shall:

(1) Adopt its own rules of procedure;

(2) Meet quarterly, with members to be physically present at a minimum of two (2) quarterly meetings each calendar year. Members may also participate

by teleconference call, provided that all other requirements of this subdivision

(b)(2) are met. Emergency meetings may be called by the chair or upon petition by a majority of the council, with written notice being given to all members; and

(3) Make nonsubstantive policy relating to the administrative operation of the council.

68-204-107.

(a) The council is authorized to request information from any state officer, office, department, commission, board, bureau, institution, or other agency of the state and its political subdivisions that is deemed necessary to carry out the requirements of this chapter. All officers and agencies shall cooperate with the council and, to the extent permitted by law, furnish any information to the council that it may request.

(b) To assure the adequate development of relevant energy information, the council may request energy producers and major energy consumers, as determined by the council, to file any reports and forecasts; however, the council may request only specific energy-related information that it deems necessary to carry out its duties.

(c) The council is authorized to apply for and utilize grants, contributions, appropriations, and any other sources of revenue which shall be deposited in the energy policy development resources fund created under § 68-204-109, in order to carry out its duties; however, all applications and requests for grants and other revenues shall be made through and administered by the OEP.

(d) The council may request the OEP to allocate and dispense any funds made available to the council for energy research and related work efforts in such a manner as the council determines; provided, that the funds shall be used in furtherance of the purposes of this chapter.

(e) The council shall be attached to the OEP for administrative matters relating to budgeting, audit, and other related items only. The autonomy and authority of the council are not affected by such attachment, and the OEP shall have no administrative or supervisory control over the council.

(f) All administrative costs of the council, including, but not limited to, the cost of the annual reports required pursuant to § 68-204-108, shall be payable out of any funds allocated to and received by the council.

68-204-108.

(a) The council shall compile, compose, and publish, and transmit to the governor, the speaker of the senate, and the speaker of the house of representatives, two (2) annual comprehensive reports as follows:

(1) An annual assessment of the state's energy sector as prescribed in § 68-204-103(b)(1), to be facilitated by the Baker Center for Public Policy; and

(2) A report to create a comprehensive state energy policy plan as prescribed in § 68-204-103(b)(2).

(b) The annual assessment of the state's energy sector, as prescribed in subdivision (a)(1), shall be composed and published by the council, with the help of the Baker Center for Public Policy, and shall include, but not be limited to, the following:

(1) Statewide projected growth and development as it relates to future requirements for energy, including patterns of urban and metropolitan expansion, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the council, will significantly affect energy needs; and

(2) Assessment of growth trends in energy consumption and production, and an identification of potential adverse social, economic, or environmental

impacts which may be imposed by a continuation of the present trends, including a rise in energy costs to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and a loss of scenic and natural areas.

(c) The comprehensive state energy policy plan shall include, but not be limited to, the following:

(1) Recommendations to the governor and the general assembly for additional administrative and legislative actions on energy matters in the context of the current energy sector in this state; and

(2) A summary of the council's activities since the last filing of the energy policy plan, a description of major plans developed by the council, an assessment of plan implementation, and a review of council plans and programs for the coming biennium.

68-204-109.

(a) There is created a special account in the state treasury to be administered by the OEP and to be known as the energy policy development resources fund, referred to in this section as the "energy resources fund."

(b) Moneys in the energy resources fund shall be allocated and disbursed:

(1) By the OEP for the purpose of developing the comprehensive state energy policy plan, as prescribed in § 68-204-103;

(2) In furtherance of the purposes of this chapter; and

(3) To offset the cost of administering this chapter.

(c) A grant from the energy resources fund shall be disbursed in an annual amount of fifty thousand dollars (\$50,000). It is the legislative intent that the annual

amount be appropriated each fiscal year in the general appropriations act for awarding a grant.

SECTION 3. For the purpose of appointing members of the council, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2017, the public welfare requiring it.