

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 964

Session of
1975

INTRODUCED BY SHUMAN, TAYLOR, DIETZ, S. E. HAYES JR., PITTS AND
DeVERTER, APRIL 9, 1975

REFERRED TO COMMITTEE ON CONSUMER PROTECTION, APRIL 14, 1975

AN ACT

1 Amending the act of March 31, 1937 (P.L.160, No.43), entitled
2 "An act creating a commission to be known as the Pennsylvania
3 Public Utility Commission; defining in part the powers and
4 duties of such commission; abolishing The Public Service
5 Commission of the Commonwealth of Pennsylvania, terminating
6 the terms of the members thereof, and transferring to the
7 Pennsylvania Public Utility Commission the records, employes,
8 property, and equipment of The Public Service Commission of
9 the Commonwealth of Pennsylvania; authorizing the
10 Pennsylvania Public Utility Commission to appear in and
11 complete all pending proceedings, legal or otherwise,
12 instituted before, by or against The Public Service
13 Commission of the Commonwealth of Pennsylvania; providing
14 that all certificates of public convenience, contracts,
15 orders, and rules and regulations of the latter commission
16 shall remain effective until repealed, changed or modified by
17 the Pennsylvania Public Utility Commission, and transferring
18 and appropriating to the Pennsylvania Public Utility
19 Commission any unexpended balance of any existing
20 appropriation to The Public Service Commission of the
21 Commonwealth of Pennsylvania," changing the method of
22 selecting members of the commission and their qualifications;
23 and further providing for quorum, filling vacancies, conduct
24 of investigations and certain improper prior and subsequent
25 employment of commissioners and their employes.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 Section 1. Section 1, act of March 31, 1937 (P.L.160,
29 No.43), entitled "An act creating a commission to be known as

1 the Pennsylvania Public Utility Commission; defining in part the
2 powers and duties of such commission; abolishing The Public
3 Service Commission of the Commonwealth of Pennsylvania,
4 terminating the terms of the members thereof, and transferring
5 to the Pennsylvania Public Utility Commission the records,
6 employes, property, and equipment of The Public Service
7 Commission of the Commonwealth of Pennsylvania; authorizing the
8 Pennsylvania Public Utility Commission to appear in and complete
9 all pending proceedings, legal or otherwise, instituted before,
10 by or against The Public Service Commission of the Commonwealth
11 of Pennsylvania; providing that all certificates of public
12 convenience, contracts, orders, and rules and regulations of the
13 latter commission shall remain effective until repealed, changed
14 or modified by the Pennsylvania Public Utility Commission, and
15 transferring and appropriating to the Pennsylvania Public
16 Utility Commission any unexpended balance of any existing
17 appropriation to The Public Service Commission of the
18 Commonwealth of Pennsylvania," subsection (a) amended March 31,
19 1943 (P.L.32, No.17), and subsection (c) amended August 16, 1968
20 (P.L.1038, No.317), is amended to read:

21 Section 1. (a) A commission to be known as the Pennsylvania
22 Public Utility Commission is hereby created. The commission
23 shall consist of five members [who shall be appointed by the
24 Governor, by and with the advice and consent of two-thirds of
25 all the members of the Senate].

26 (1) Appointed Commissioners. The present commissioners
27 [first appointed under this act,] shall continue in office for
28 [terms of two, four, six, eight, and ten years, respectively,
29 from the effective day of this act, but their successors shall
30 each be appointed for a term of ten years] the balance of the

1 terms for which they have been appointed. No commissioner, upon
2 the expiration of his term as aforesaid, shall continue to hold
3 office until his successor shall be duly [appointed] elected or
4 shall be qualified. Each appointed commissioner, at the time of
5 his appointment and qualification, shall [be] have been a
6 resident of the Commonwealth of Pennsylvania, and shall have
7 been a qualified elector therein for a period of at least one
8 year next preceding his appointment, and shall also be not less
9 than thirty years of age.

10 (2) Elected Commissioners. At the municipal election in
11 1975, and at each municipal election every two years thereafter,
12 there shall be elected one commissioner for a term of ten years.
13 Each elected commissioner shall be a resident of the
14 Commonwealth of Pennsylvania, and shall have been a qualified
15 elector therein for a period of at least one year next preceding
16 his nomination, and shall also be not less than twenty-five
17 years of age.

18 (b) [A member designated by the Governor shall be the
19 chairman of the commission during such member's term of office.]
20 Chairman. A chairman of the commission shall be elected
21 annually by the commissioners at their first January meeting.
22 When present, the chairman shall preside at all meetings, but in
23 his absence a member, designated by the chairman, shall preside
24 and shall exercise, for the time being, all the powers of the
25 chairman.

26 (c) Each of the commissioners shall receive an annual salary
27 of twenty-four thousand dollars (\$24,000), except the chairman,
28 who shall receive an annual salary of twenty-five thousand
29 dollars (\$25,000).

30 (d) Three members of the commission, one of whom shall be an

1 elected commissioner after 1975, shall constitute a quorum who,
2 for all purposes, including the making of any order or the
3 ratification of any act done or order made by one or more of the
4 commissioners, must act unanimously.

5 Section 2. Sections 2, 3 and 7 of the act are amended to
6 read:

7 Section 2. (a) When a vacancy shall occur in the office of
8 any appointed commissioner, a commissioner shall, in the manner
9 aforesaid, be appointed for the residue of the term. If the
10 Senate shall not be in session when any vacancy occurs, any
11 appointment made by the Governor to fill the vacancy shall be
12 subject to the approval of the Senate, when convened. No vacancy
13 in the commission shall impair the right of a quorum of the
14 commissioners to exercise all the rights and perform all the
15 duties of the commission.

16 (b) When a vacancy shall occur in the office of any elected
17 commissioner the Governor shall issue a writ of election to fill
18 such vacancy for the remainder of the term.

19 Section 3. (a) No person shall be appointed a member of the
20 commission, or hold any place, position or office under it, who
21 occupies any official relation to any public service company or
22 public utility, or who holds any other appointive or elective
23 office of the Commonwealth, or any political subdivision
24 thereof. No commissioner, and no employe, appointee or official
25 engaged in the service of, or in any manner connected with, the
26 commission, shall hold any other office or position, or be
27 engaged in any other business, employment or vocation [the
28 duties of which are incompatible with the duties of his office
29 as commissioner, or his employment in the service, or in
30 connection with the work of the commission]. No commissioner

1 shall participate in any hearing or proceeding in which he has
2 any direct or indirect pecuniary interest. Every commissioner,
3 and every individual or official, employed or appointed to
4 office under, in the service of, or in connection with, the work
5 of the commission, is hereby forbidden, directly or indirectly,
6 to solicit or request from, or to suggest or recommend to any
7 public service company or public utility, or to any officer,
8 attorney, agent or employe thereof, the appointment of any
9 individual to any office, place or position in, or the
10 employment of any individual in any capacity by, such public
11 service company or public utility. If any person employed or
12 appointed in the service of the commission shall violate any
13 provision of this section, the commission shall forthwith remove
14 him from the office or employment held by him.

15 (b) The elected commissioners shall be representative of the
16 general public and no person who has held any office in, or been
17 employed by a public utility or any business providing services
18 to a public utility shall be eligible for nomination to the
19 office of commissioner until two years after he has left such
20 office or employment.

21 (c) No commissioner or employe of the commission may accept
22 any office or employment with a public utility subject to
23 regulation under the act of May 28, 1937 (P.L.1053, No.286),
24 known as the "Public Utility Law," until two years shall have
25 elapsed from his last day in office or employment with the
26 commission. Violation of this prohibition shall result in
27 immediate and complete forfeiture of any claim to a public
28 pension under the State Employees' Retirement Code, 71 Pa.C.S.
29 5101 et seq., act of March 1, 1974 (No.31).

30 Section 7. Any investigation, inquiry or hearing which the

1 commission has power to undertake or hold, may be undertaken or
2 held by or before [any one or more of the commissioners] at
3 least three of the commissioners, one of whom shall be an
4 elected commissioner after 1975. All investigations, inquiries
5 or hearings before or by any such commissioner or commissioners,
6 shall be and be deemed to be the investigations, inquiries and
7 hearings of the commission. Any determination or order of a
8 commissioner or commissioners upon any such investigation,
9 inquiry or hearing, undertaken or held by him or them shall not
10 become and be effective until approved and confirmed by at least
11 a quorum of the commission. Upon such confirmation, such
12 determination or order shall be the determination or order of
13 the commission. In any investigation, inquiry or hearing, the
14 commission may designate a special agent or examiner who shall
15 have the power to administer oaths and examine witnesses and
16 receive evidence in any locality which the commission, having
17 regard to the public convenience and the proper discharge of its
18 functions and duties, may designate. The testimony and evidence
19 so taken or received shall have the same force and effect as if
20 taken or received by the commission, or any one or more of the
21 commissioners, as above provided.

22 Section 3. This act shall take effect immediately.