

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1837

Session of
1984

INTRODUCED BY KUKOVICH, LAUGHLIN, DeLUCA, FREEMAN, BLAUM AND
LLOYD, JANUARY 23, 1984

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 7, 1984

AN ACT

1 Amending Title 66 (Public Utilities) of the Pennsylvania
2 Consolidated Statutes, further providing for the terms of
3 office and appointment of public utility commissioners; and
4 providing for retention election of appointed commissioners.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 301(a) AND (B) of Title 66 of the <—
8 Pennsylvania Consolidated Statutes is amended and subsections
9 are added to read:

10 § 301. Establishment, members, qualifications and chairman.

11 (a) Appointment and terms of members.--The Pennsylvania
12 Public Utility Commission, established by the act of March 31,
13 1937 (P.L.160, No.43), as an independent administrative
14 commission, is hereby continued as such and shall consist of
15 five members who shall be appointed by the Governor, by and with
16 the advice and consent of two-thirds of all the members of the
17 Senate, for a term of [ten] five years. No commissioner upon the
18 expiration of his term shall continue to hold office until his

1 successor shall be duly appointed or shall be qualified.

2 (B) QUALIFICATIONS AND RESTRICTIONS.--EACH COMMISSIONER, AT <—
3 THE TIME OF HIS APPOINTMENT AND QUALIFICATION, SHALL BE A
4 RESIDENT OF THIS COMMONWEALTH AND SHALL HAVE BEEN A QUALIFIED
5 ELECTOR THEREIN FOR A PERIOD OF AT LEAST ONE YEAR NEXT PRECEDING
6 HIS APPOINTMENT, AND SHALL ALSO BE NOT LESS THAN 30 YEARS OF
7 AGE. NO PERSON SHALL BE APPOINTED A MEMBER OF THE COMMISSION OR
8 HOLD ANY PLACE, POSITION OR OFFICE UNDER IT, WHO OCCUPIES ANY
9 OFFICIAL RELATION TO ANY PUBLIC UTILITY OR WHO HOLDS ANY OTHER
10 APPOINTIVE OR ELECTED OFFICE OF THE COMMONWEALTH OR ANY
11 POLITICAL SUBDIVISION THEREOF. NO COMMISSIONER SHALL SEEK
12 ELECTION TO ANY POLITICAL OFFICE DURING HIS TENURE AS A
13 COMMISSIONER. COMMENCING JULY 1, 1977, COMMISSIONERS SHALL
14 DEVOTE FULL TIME TO THEIR OFFICIAL DUTIES. NO COMMISSIONER SHALL
15 HOLD ANY OFFICE OR POSITION, THE DUTIES OF WHICH ARE
16 INCOMPATIBLE WITH THE DUTIES OF HIS OFFICE AS COMMISSIONER, OR
17 BE ENGAGED IN ANY BUSINESS, EMPLOYMENT OR VOCATION, FOR WHICH HE
18 SHALL RECEIVE ANY REMUNERATION, EXCEPT AS PROVIDED IN THIS
19 CHAPTER. NO EMPLOYEE, APPOINTEE OR OFFICIAL ENGAGED IN THE
20 SERVICE OF OR IN ANY MANNER CONNECTED WITH, THE COMMISSION SHALL
21 HOLD ANY OFFICE OR POSITION, OR BE ENGAGED IN ANY EMPLOYMENT OR
22 VOCATION, THE DUTIES OF WHICH ARE INCOMPATIBLE WITH HIS
23 EMPLOYMENT IN THE SERVICE OF OR IN CONNECTION WITH THE WORK OF
24 THE COMMISSION. NO COMMISSIONER SHALL BE PAID OR ACCEPT FOR ANY
25 SERVICE CONNECTED WITH THE OFFICE, ANY FEE OR EMOLUMENT OTHER
26 THAN THE SALARY AND EXPENSES PROVIDED BY LAW. NO COMMISSIONER
27 SHALL PARTICIPATE IN ANY HEARING OR PROCEEDING IN WHICH HE HAS
28 ANY DIRECT OR INDIRECT PECUNIARY INTEREST. WITHIN 90 DAYS OF
29 CONFIRMATION, EACH COMMISSIONER SHALL DISCLOSE, AT THAT TIME AND
30 THEREAFTER ANNUALLY, THE EXISTENCE OF ALL SECURITY HOLDINGS IN

1 ANY PUBLIC UTILITY OR ITS AFFILIATES HELD BY SUCH COMMISSIONER,
2 HIS OR HER SPOUSE AND ANY MINOR OR UNEMANCIPATED CHILDREN AND
3 MUST EITHER DIVEST OR PLACE IN A BLIND TRUST SUCH SECURITIES. AS
4 USED IN THIS PART, BLIND TRUST MEANS A TRUST OVER WHICH NEITHER
5 THE COMMISSIONERS, THEIR SPOUSES, NOR ANY MINOR OR UNEMANCIPATED
6 CHILDREN SHALL EXERCISE ANY MANAGERIAL CONTROL, AND FROM WHICH
7 NEITHER THE COMMISSIONERS, THEIR SPOUSES, NOR ANY MINOR OR
8 UNEMANCIPATED CHILDREN SHALL RECEIVE ANY INCOME FROM THE TRUST
9 DURING THE COMMISSIONER'S TENURE OF OFFICE. SUCH DISCLOSURE
10 STATEMENT SHALL BE FILED WITH THE SECRETARY OF THE COMMISSION
11 AND SHALL BE OPEN TO INSPECTION BY THE PUBLIC DURING THE NORMAL
12 BUSINESS HOURS OF THE COMMISSION DURING THE TENURE OF THE
13 COMMISSIONER. EVERY COMMISSIONER, AND EVERY INDIVIDUAL OR
14 OFFICIAL, EMPLOYED OR APPOINTED TO OFFICE UNDER, IN THE SERVICE
15 OF, OR IN CONNECTION WITH, THE WORK OF THE COMMISSION, IS
16 FORBIDDEN, DIRECTLY OR INDIRECTLY, TO SOLICIT OR REQUEST FROM,
17 OR TO SUGGEST OR RECOMMEND TO ANY PUBLIC UTILITY, OR TO ANY
18 OFFICER, ATTORNEY, AGENT OR EMPLOYEE THEREOF, THE APPOINTMENT OF
19 ANY INDIVIDUAL TO ANY OFFICE, PLACE OR POSITION IN, OR THE
20 EMPLOYMENT OF ANY INDIVIDUAL IN ANY CAPACITY BY, SUCH PUBLIC
21 UTILITY. EVERY COMMISSIONER, EVERY BUREAU DIRECTOR AND EVERY
22 ADMINISTRATIVE LAW JUDGE EMPLOYED OR APPOINTED TO OFFICE UNDER,
23 IN THE SERVICE OF OR IN CONNECTION WITH THE WORK OF THE
24 COMMISSION, IS PROHIBITED FROM ACCEPTING EMPLOYMENT WITH ANY
25 PUBLIC UTILITY SUBJECT TO THE RULES AND REGULATIONS OF THE
26 COMMISSION FOR A PERIOD OF ONE YEAR AFTER TERMINATING EMPLOYMENT
27 OR SERVICE WITH THE COMMISSION. IF ANY PERSON EMPLOYED OR
28 APPOINTED IN THE SERVICE OF THE COMMISSION VIOLATES ANY
29 PROVISION OF THIS SECTION, THE COMMISSION SHALL FORTHWITH REMOVE
30 HIM FROM THE OFFICE OR EMPLOYMENT HELD BY HIM.

1 * * *

2 (h) Commissioners.--The commissioners shall be selected from
3 a list of qualified persons submitted to the Governor by the
4 Public Utility Commission Nominating Council WHICH SHALL BE <—
5 CONSTITUTED BY JANUARY 15 OF EACH YEAR.

6 (i) Public Utility Commission Nominating Council.--There
7 shall be a Public Utility Commission Nominating Council,
8 hereafter referred to as the council, whose purpose shall be the
9 selection of a number of qualified persons from which the
10 Governor shall appoint members of the commission.

11 (j) Members of council.--The council shall include the
12 following persons:

13 (1) A representative from the Governor's Energy Council.

14 (2) A representative of ~~the business community~~ LARGE <—
15 INDUSTRIAL END-USERS OF ENERGY appointed annually by the
16 Governor.

17 (3) A representative of labor appointed annually by the
18 Governor.

19 (4) A senior citizen 60 years of age or older appointed
20 annually by the Governor.

21 (5) A representative of consumer interests appointed
22 annually by the chairman of the Consumer Affairs Committee of
23 the House of Representatives.

24 (6) A representative of consumer interests appointed
25 annually by the minority chairman of the Consumer Affairs
26 Committee of the House of Representatives.

27 (7) A representative of consumer interests appointed
28 annually by the chairman of the Consumer Protection and
29 Professional Licensure Committee of the Senate.

30 (8) A representative of consumer interests appointed

1 annually by the minority chairman of the Consumer Protection
2 and Professional Licensure Committee of the Senate.

3 (9) A representative of the agricultural community
4 appointed annually by the Governor.

5 (10) Two representatives of consumer organizations
6 appointed annually by the Governor.

7 A list of the members of the council so appointed shall be
8 submitted to the General Assembly for its information. Members
9 of the council shall receive no compensation, but shall be
10 entitled to reimbursement for actual REASONABLE expenses <—
11 incurred in the performance of their duties under this section,
12 which expenses shall be paid by the Office of Administration of
13 the Governor.

14 (k) Function of council.--The council shall:

15 (1) Organize, select a chairman and adopt bylaws to
16 govern its activities.

17 (2) Review and evaluate potential appointees for the
18 office of commissioner.

19 (3) Furnish a list of at least three, BUT NOT MORE THAN <—
20 EIGHT, potential appointees to the Governor no later than 60 <—
21 120 days prior to the expiration of the term of any
22 commissioner, or within 30 days of the death, resignation or
23 termination of service of any commissioner. The list shall,
24 at the same time, also be submitted to the General Assembly
25 for its information.

26 (l) Action by Governor.--Within 30 days of receipt of the
27 council's recommendation, the Governor shall select and nominate
28 to the Senate one of the persons recommended by the council to
29 fill a vacancy occurring in the office of commissioner. If the
30 Governor does not, within the prescribed 30-day period, nominate

1 to the Senate for its consent the name of one of the persons so
2 recommended, an action of mandamus may be immediately commenced
3 against the Governor to compel performance of his official duty.

4 (m) Retention election of commissioners.--A member of the
5 commission may file a declaration of candidacy for retention
6 election with the Secretary of the Commonwealth on or before the
7 first Monday of January of the year preceding the year in which
8 his term of office expires. If no declaration is filed, a
9 vacancy shall exist upon the expiration of the term the member
10 of the commission is then serving, to be filled by appointment
11 by the Governor AS PROVIDED IN THIS SECTION. If a member of the <—
12 commission files a declaration, his name shall be submitted to
13 the electors without party designation, on a separate ballot or
14 in a separate column on voting machines, at the November
15 election in the year in which the declaration is filed to
16 determine only the question whether he shall be retained in
17 office. If a majority is against retention, a vacancy shall
18 exist upon the expiration of his term of office, to be filled by
19 appointment by the Governor as provided in this section. The
20 Governor shall not have the power to appoint any person as a
21 member of the commission who has previously been appointed as a
22 member of the commission. If a majority favors retention, the
23 member of the commission shall serve for the regular ANOTHER <—
24 FIVE-YEAR term of office provided in this section. At the
25 expiration of each FIVE-YEAR term, a member of the commission <—
26 shall be eligible for retention as provided in this section.
27 THERE SHALL BE NO LIMIT ON THE NUMBER OF TIMES THE NAME OF A <—
28 MEMBER OF THE COMMISSION MAY BE SUBMITTED TO THE ELECTORS IN A
29 RETENTION ELECTION.

30 (n) Donation limits.--No commissioner seeking retention

1 election shall accept donations of more than ~~\$250~~ \$1,000 from <—
2 any person or political committee.

3 SECTION 2. THIS ACT SHALL NOT BE CONSTRUED TO SHORTEN OR <—
4 OTHERWISE ALTER THE TERM OF ANY PERSON SERVING AS A MEMBER OF
5 THE PUBLIC UTILITY COMMISSION ON THE EFFECTIVE DATE OF THIS ACT.
6 HOWEVER, NO SUCH MEMBER SHALL BE APPOINTED TO AN ADDITIONAL TERM
7 ON THE PUBLIC UTILITY COMMISSION OTHER THAN IN ACCORDANCE WITH
8 THIS ACT AND NO SUCH MEMBER SHALL BE ELIGIBLE FOR RETENTION
9 ELECTION AT THE END OF THE TERM HE IS SERVING ON THE EFFECTIVE
10 DATE OF THIS ACT.

11 Section ~~2~~ 3. This act shall take effect in 60 days. <—