

HOUSE BILL 135

Unofficial Copy
C5

2002 Regular Session
(21r1221)

ENROLLED BILL
-- Environmental Matters/Finance --

Introduced by ~~Delegate Stern~~ **Delegates Stern, Franchot, and Hecht**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 494

1 AN ACT concerning

2 **Public Service Commission - Orders and Office of the People's Counsel Fund**
3 **- Public Utility Regulation Fund and Filing Fees**

4 FOR the purpose of establishing the Public Service Commission and Office of the
5 People's Counsel Fund; requiring the Fund to be administered by the
6 Commission; providing that the Fund is a nonlapsing fund; requiring the
7 Treasurer to hold and the Comptroller to account for the Fund; providing that
8 the Fund consist of assessments paid by public service companies; requiring the
9 People's Counsel to estimate certain costs at a certain time; requiring the
10 Treasurer to invest the Fund in the same manner as other State funds;
11 requiring that investments earnings be retained to the credit of the Fund;
12 requiring expenditures from the Fund be made in accordance with the State
13 budget; authorizing the Fund to receive funds from any other source; requiring
14 that moneys in the Fund be used to fund the Commission and the Office of the
15 People's Counsel; repealing the requirement that costs and expenses of the
16 Commission and Office of the People's Counsel be paid from the State Treasury;
17 repealing the requirement that the State Treasury be reimbursed from the

1 assessments paid by public service companies; requiring public service
 2 companies to make payment to the Public Service Commission and Office of the
 3 People's Counsel Fund; and generally relating to the Public Service Commission
 4 and Office of the People's Counsel Fund a Public Utility Regulation Fund;
 5 providing for the purpose and administration of the Fund; specifying the sources
 6 of the Fund; requiring the Public Service Commission to pay certain moneys to
 7 the General Fund of the State; providing that the Fund is a special, nonlapsing
 8 fund; requiring the Commission to pay certain moneys collected from certain
 9 assessments into the Fund; specifying that the estimate used to determine the
 10 assessment shall include certain expenses and costs of the Office of People's
 11 Counsel; providing that the Commission may charge reasonable and
 12 nondiscriminatory fees for the filing of certain documents with the Commission;
 13 providing for the consideration of certain expenses in determining the amount of
 14 a certain fee; requiring the Commission to waive certain fees for units of State
 15 government; allowing the Commission to waive certain fees if the waiver is in the
 16 public interest; specifying that a document for which a filing fee is required is not
 17 considered filed until the fee has been paid; providing that under certain
 18 circumstances, the Commission may implement certain provisions of law by
 19 either order or regulation as the Commission deems necessary and proper; and
 20 generally relating to the Public Utility Regulation Fund and Commission filing
 21 fees, and Public Service Commission orders.

22 BY repealing and reenacting, with amendments,
 23 Article - Public Utility Companies
 24 Section 2-110 and 3-113
 25 Annotated Code of Maryland
 26 (1998 Volume and 2001 Supplement)

27 BY adding to
 28 Article - Public Utility Companies
 29 Section 2-110.1 and 2-123
 30 Annotated Code of Maryland
 31 (1998 Volume and 2001 Supplement)

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 33 MARYLAND, That the Laws of Maryland read as follows:

34 **Article - Public Utility Companies**

35 2-110.

36 (a) In this section, "public service company" includes an electricity supplier
 37 and a gas supplier as those terms are defined in § 1-101 of this article.

38 (b) (1) [(i) Subject to paragraphs (2) and (3) of this subsection, the] THE
 39 costs and expenses of the Commission and the Office of People's Counsel shall be

1 borne by the public service companies that are subject to the Commission's
2 jurisdiction.

3 [(ii)] (2) The costs and expenses shall be assessed as provided in
4 this section.

5 [(2) An appropriation for the costs and expenses of the Commission and
6 the Office of People's Counsel shall be included in the State budget and paid from the
7 State Treasury.

8 (3) The State Treasury shall be reimbursed from the money collected
9 under this section for the costs and expenses of the Commission and the Office of
10 People's Counsel.]

11 (3) THE COMMISSION SHALL PAY THE MONEY THAT IT COLLECTS FOR
12 THE ASSESSMENT UNDER THIS SECTION INTO THE PUBLIC UTILITY REGULATION
13 FUND IN THE STATE TREASURY ESTABLISHED UNDER § 2-110.1 OF THIS SUBTITLE
14 TO REIMBURSE THE STATE FOR THE EXPENSES OF THE COMMISSION AND THE
15 OFFICE OF PEOPLE'S COUNSEL.

16 (c) (1) (i) Before each State fiscal year, the Chairman of the Commission
17 ~~AND THE PEOPLE'S COUNSEL~~ shall estimate the COMMISSION'S ~~Commission's~~ total
18 costs and expenses ~~OF THE COMMISSION AND THE OFFICE OF THE PEOPLE'S~~
19 ~~COUNSEL~~, including:

20 1. the compensation and expenses of the Commission, ~~THE~~
21 ~~OFFICE OF THE PEOPLE'S COUNSEL~~, its ~~AND THE~~ officers, agents, and personnel ~~OF~~
22 ~~THE COMMISSION AND THE OFFICE~~ ITS OFFICERS, AGENTS, AND PERSONNEL;

23 2. the cost of retirement contributions, Social Security,
24 health insurance, and other benefits required to be paid by the State for the personnel
25 of the Commission ~~AND THE PEOPLE'S COUNSEL;~~

26 3. all other maintenance and operation expenses OF THE
27 COMMISSION; and

28 4. all other direct and indirect costs OF THE COMMISSION.

29 (ii) The estimate shall exclude the ~~costs of maintaining testing~~
30 ~~equipment reimbursable under § 2-111(a) of this subtitle~~ EXPENSES ASSOCIATED
31 WITH SERVICES PERFORMED BY THE COMMISSION FOR WHICH THE COMMISSION IS
32 REIMBURSED UNDER THIS ARTICLE.

33 (iii) THE ESTIMATE SHALL INCLUDE, AS PROVIDED BY THE OFFICE
34 OF PEOPLE'S COUNSEL;

35 1. THE COMPENSATION AND EXPENSES OF THE OFFICE OF
36 PEOPLE'S COUNSEL, ITS OFFICERS, AGENTS, AND PERSONNEL;

1 (ii) The change shall be apportioned equally against the remaining
2 payments for the fiscal year.

3 (10) (i) On or before September 15th of each year, the Chairman shall
4 compute the actual costs and expenses of the Commission, AND THE ACTUAL COSTS
5 AND EXPENSES OF THE OFFICE OF PEOPLE'S COUNSEL, AS PROVIDED BY THE
6 PEOPLE'S COUNSEL for the preceding fiscal year.

7 (ii) After deducting the amounts recovered under ~~§ 2-111(a)~~ §§
8 2-111(A) AND 2-123 of this subtitle, on or before October 15th, the Chairman shall send
9 to any public service company that is affected a statement that shows the amount due
10 or the amount to the credit of the public service company.

11 (11) (i) A public service company shall pay an amount due within 30
12 days after the statement is received.

13 (ii) ~~At the option of the public service company, an AN~~ amount to
14 the credit of a public service company shall be ~~refunded or~~ applied against any
15 succeeding payment due.

16 (12) The total amount that may be charged to a public service company
17 under this section for a State fiscal year may not exceed:

18 (i) 0.17% of the public service company's gross operating revenues
19 derived from intrastate utility and electricity supplier's operations in the preceding
20 calendar year, or other 12-month period that the Chairman determines, for the costs
21 and expenses of the Commission other than that of the Office of People's Counsel;
22 plus

23 (ii) 0.05% of those revenues for the costs and expenses of the Office
24 of People's Counsel.

25 (d) (1) Within 30 days after the Commission issues a bill under subsection
26 (c) of this section, the party billed may request a hearing as to the amount of the bill.

27 (2) Any amount of a bill that is not paid within 30 days after the date of
28 determination on a hearing or, if a hearing is not requested, on the date when
29 payment is due, shall bear annual interest at a rate, not less than 6%, that the
30 Commission sets by regulation.

31 2-110.1.

32 (A) ~~IN THIS SECTION, "FUND" MEANS THE PUBLIC SERVICE COMMISSION AND~~
33 ~~OFFICE OF THE PEOPLE'S COUNSEL FUND.~~

34 (B) ~~THERE IS A PUBLIC SERVICE COMMISSION AND OFFICE OF THE PEOPLE'S~~
35 ~~COUNSEL FUND.~~

36 (C) ~~THE COMMISSION SHALL ADMINISTER THE FUND.~~

1 ~~(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT~~
2 ~~TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

3 ~~(2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE~~
4 ~~COMPTROLLER SHALL ACCOUNT FOR THE FUND.~~

5 ~~(E) THE FUND CONSISTS OF ASSESSMENTS MADE TO THE FUND IN~~
6 ~~ACCORDANCE WITH § 2-110 OF THIS SUBTITLE.~~

7 ~~(F) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE~~
8 ~~SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.~~

9 ~~(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE RETAINED TO~~
10 ~~THE CREDIT OF THE FUND.~~

11 ~~(G) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE~~
12 ~~WITH THE STATE BUDGET.~~

13 ~~(H) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE FUND FROM~~
14 ~~RECEIVING FUNDS FROM ANY OTHER SOURCE.~~

15 ~~(I) THE FUND SHALL BE USED ONLY TO PROVIDE FUNDING FOR THE~~
16 ~~COMMISSION AND THE OFFICE OF THE PEOPLE'S COUNSEL AND FOR THE PURPOSES~~
17 ~~AUTHORIZED UNDER THIS ARTICLE THERE IS A PUBLIC UTILITY REGULATION FUND.~~

18 ~~(B) THE FUND CONSISTS OF:~~

19 ~~(1) ALL REVENUE RECEIVED THROUGH THE IMPOSITION AND~~
20 ~~COLLECTION OF ASSESSMENTS UNDER § 2-110 OF THIS SUBTITLE;~~

21 ~~(2) FEES RECEIVED BY THE COMMISSION UNDER § 2-123 OF THIS~~
22 ~~SUBTITLE FOR FILINGS AND FOR OTHER SERVICES RENDERED BY THE~~
23 ~~COMMISSION;~~

24 ~~(3) INCOME FROM INVESTMENTS THAT THE STATE TREASURER MAKES~~
25 ~~FOR THE FUND; AND~~

26 ~~(4) ANY OTHER FEE, EXAMINATION ASSESSMENT, OR REVENUE~~
27 ~~RECEIVED BY THE COMMISSION UNDER THIS ARTICLE.~~

28 ~~(C) NOTWITHSTANDING SUBSECTION (B) OF THIS SECTION, THE COMMISSION~~
29 ~~SHALL PAY ALL FINES AND PENALTIES COLLECTED BY THE COMMISSION UNDER~~
30 ~~THIS ARTICLE INTO THE GENERAL FUND OF THE STATE.~~

31 ~~(D) THE PURPOSE OF THE FUND IS TO PAY ALL THE COSTS AND EXPENSES~~
32 ~~INCURRED BY THE COMMISSION AND THE OFFICE OF PEOPLE'S COUNSEL THAT ARE~~
33 ~~RELATED TO THE OPERATION OF THE COMMISSION AND THE OFFICE OF PEOPLE'S~~
34 ~~COUNSEL, INCLUDING:~~

35 ~~(1) EXPENDITURES AUTHORIZED UNDER THIS ARTICLE; AND~~

- 1 (2) ANY OTHER EXPENSE AUTHORIZED IN THE STATE BUDGET.
- 2 (E) (1) ALL THE COSTS AND EXPENSES OF THE COMMISSION AND THE
3 OFFICE OF PEOPLE'S COUNSEL SHALL BE INCLUDED IN THE STATE BUDGET.
- 4 (2) EXPENDITURES FROM THE FUND TO COVER COSTS AND EXPENSES
5 OF THE COMMISSION AND OFFICE OF PEOPLE'S COUNSEL MAY ONLY BE MADE:
- 6 (1) WITH AN APPROPRIATION FROM THE FUND APPROVED BY THE
7 GENERAL ASSEMBLY IN THE STATE BUDGET; OR
- 8 (II) BY BUDGET AMENDMENT IN ACCORDANCE WITH § 7-209 OF
9 THE STATE FINANCE AND PROCUREMENT ARTICLE.
- 10 (F) (1) THE STATE TREASURER IS THE CUSTODIAN OF THE FUND.
- 11 (2) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED
12 FROM THE COMMISSION INTO THE FUND.
- 13 (G) (1) THE FUND IS A CONTINUING, SPECIAL, NONLAPSING FUND THAT IS
14 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AND
15 MAY NOT BE CONSIDERED A PART OF THE GENERAL FUND OF THE STATE.
- 16 (2) UNLESS OTHERWISE PROVIDED BY LAW, NO PART OF THE FUND MAY
17 REVERT OR BE CREDITED TO:
- 18 (1) THE GENERAL FUND OF THE STATE; OR
- 19 (II) ANY OTHER SPECIAL FUND OF THE STATE.
- 20 2-123.
- 21 (A) IN ACCORDANCE WITH THIS SECTION, THE COMMISSION MAY CHARGE
22 REASONABLE AND NONDISCRIMINATORY FEES FOR THE FILING OF DOCUMENTS
23 WITH THE COMMISSION AND FOR OTHER SERVICES PERFORMED BY THE
24 COMMISSION.
- 25 (B) ACTIONS FOR WHICH THE COMMISSION MAY CHARGE A FEE INCLUDE:
- 26 (1) AN INITIAL TARIFF OR TARIFF CHANGE;
- 27 (2) A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY;
- 28 (3) AN APPLICATION TO PROVIDE OR ABANDON SERVICE;
- 29 (4) A PREPARATION OF ANY RECORD IN APPEAL;
- 30 (5) A CERTIFICATION OF ANY DOCUMENT;
- 31 (6) AN APPLICATION OR PETITION TO INCREASE OR DECREASE RATES;

1 (7) AN ANNUAL REPORT;

2 (8) A COPY OF PAPERS, TESTIMONY, MICROFICHE, RECORDS, AND
3 COMPUTER PRINTOUTS; AND

4 (9) ANY OTHER FILING OR SERVICE FOR WHICH THE COMMISSION
5 REASONABLY DETERMINES THAT A FEE IS REQUIRED.

6 (C) (1) IN DETERMINING THE AMOUNT OF A FEE TO BE CHARGED FOR A
7 FILING OR OTHER SERVICE PERFORMED BY THE COMMISSION, THE COMMISSION
8 SHALL CONSIDER THE ESTIMATED EXPENSE ASSOCIATED WITH THE FILING OR
9 OTHER SERVICE.

10 (2) (I) THE COMMISSION SHALL WAIVE A FEE CHARGED UNDER THIS
11 SECTION FOR A FILING BY A UNIT OF STATE GOVERNMENT OR FOR A SERVICE
12 PERFORMED BY THE COMMISSION FOR A UNIT OF STATE GOVERNMENT.

13 (II) THE COMMISSION MAY WAIVE A FEE CHARGED UNDER THIS
14 SECTION IF THE COMMISSION DETERMINES THAT THE WAIVER IS IN THE PUBLIC
15 INTEREST.

16 (D) A DOCUMENT FOR WHICH A FILING FEE IS REQUIRED MAY BE RECEIVED
17 BY THE COMMISSION AT ANY TIME, BUT MAY NOT BE CONSIDERED FILED UNTIL THE
18 FILING FEE HAS BEEN PAID.

19 (E) THE COMMISSION SHALL DEPOSIT ALL FEES COLLECTED UNDER THIS
20 SECTION IN THE PUBLIC UTILITY REGULATION FUND.

21 (F) THE COMMISSION SHALL ADOPT REGULATIONS TO SET REASONABLE AND
22 NONDISCRIMINATORY FEES FOR FILING AND OTHER SERVICES PERFORMED BY THE
23 COMMISSION.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
25 read as follows:
26 3-113.

27 (a) A decision and order of the Commission in a contested proceeding shall:

28 (1) be based on consideration of the record;

29 (2) be in writing; and

30 (3) state the grounds for the conclusions of the Commission.

31 (b) An order of the Commission shall take effect within a reasonable time that
32 the Commission prescribes, and shall continue in force according to the terms of the
33 order unless vacated, suspended, modified, or superseded by further order of the
34 Commission or by a court of competent jurisdiction.

1 (c) (1) A person served with an order of the Commission shall promptly
 2 notify the Commission in writing of receipt of service.

3 (2) For notification by a corporation under paragraph (1) of this
 4 subsection, a person authorized to accept service for the corporation shall sign the
 5 notice.

6 (3) The Commission may require in an order that notice be provided to
 7 the Commission:

8 (i) within the time specified in the order;

9 (ii) in the same manner as notice provided in paragraph (1) of this
 10 subsection; and

11 (iii) describing if, and to what extent, the order is accepted and will
 12 be obeyed.

13 (d) (1) An order of a panel constituted under § 3-104(a) of this subtitle is
 14 final.

15 (2) A proposed order of a commissioner or hearing examiner under §
 16 3-104(d) of this subtitle becomes final unless a party to the proceeding notes an appeal
 17 with the Commission within 30 days after the order is filed with the Commission.

18 (3) On appeal, the Commission promptly shall:

19 (i) consider the matter on the record before the commissioner or
 20 hearing examiner;

21 (ii) conduct any further proceedings that it considers necessary
 22 including requiring the filing of briefs and the holding of oral argument; and

23 (iii) issue a final order.

24 (E) NOTWITHSTANDING THE ADMINISTRATIVE PROCEDURE ACT, UNLESS A
 25 PROVISION OF THIS ARTICLE SPECIFICALLY REQUIRES THE COMMISSION TO ACT
 26 THROUGH REGULATION, THE COMMISSION MAY IMPLEMENT ANY PROVISION OF
 27 THIS ARTICLE BY EITHER ORDER OR REGULATION AS THE COMMISSION DEEMS
 28 NECESSARY AND PROPER.

29 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
 30 be construed to apply retroactively and shall be applied to and interpreted to affect any
 31 order issued by the Public Service Commission on or after June 1, 2000.

32 SECTION ~~2.~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
 33 effect ~~October~~ June 1, 2002.

