

HOUSE BILL 1012

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C5

1999 Regular Session  
(9lr2285)

*ENROLLED BILL*  
*-- Environmental Matters/Finance --*

Introduced by **Delegates Guns, Owings, Hammen, Rawlings, Conway, and Taylor**

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 \_\_\_\_\_

1 AN ACT concerning

2 **Public Service Commission - Funding, and Personnel, ~~and Procurement~~**

3 FOR the purpose of establishing the Public Service Commission Fund for certain  
4 purposes; providing for the funding of certain costs and expenses of the Public  
5 Service Commission ~~and the Office of People's Counsel~~ in a certain manner and  
6 subject to a certain limitation; authorizing the Commission to alter the salary  
7 plan and classes of Commission personnel, subject to certain review; providing  
8 that certain Commission personnel are in the executive service, management  
9 service, or are special appointments in the State Personnel Management  
10 System; ~~exempting the Commission from certain procurement provisions;~~  
11 requiring a certain annual report by a certain date; providing for the  
12 distribution of certain funds; providing for the application of this Act; and  
13 generally relating to the Public Service Commission; funding and personnel;  
14 ~~and procurement.~~

15 BY repealing and reenacting, with amendments,

1 Article - Public Utility Companies  
 2 Section 2-108(d) and 2-110  
 3 Annotated Code of Maryland  
 4 (1998 Volume)

5 BY adding to  
 6 Article - Public Utility Companies  
 7 Section 2-108(e) through (g)  
 8 Annotated Code of Maryland  
 9 (1998 Volume)

10 BY repealing and reenacting, without amendments,  
 11 Article - Public Utility Companies  
 12 Section 2-203  
 13 Annotated Code of Maryland  
 14 (1998 Volume)

15 ~~BY repealing and reenacting, with amendments,  
 16 Article - State Finance and Procurement  
 17 Section 11-203(a)(1)(xv) and (xvi)  
 18 Annotated Code of Maryland  
 19 (1995 Replacement Volume and 1998 Supplement)~~

20 ~~BY adding to  
 21 Article - State Finance and Procurement  
 22 Section 11-203(a)(1)(xvii)  
 23 Annotated Code of Maryland  
 24 (1995 Replacement Volume and 1998 Supplement)~~

25 ~~BY repealing and reenacting, without amendments,  
 26 Article - State Finance and Procurement  
 27 Section 11-203(b)  
 28 Annotated Code of Maryland  
 29 (1995 Replacement Volume and 1998 Supplement)~~

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

32 **Article - Public Utility Companies**

33 2-108.

34 (d) (1) The State budget shall provide sufficient money for the Commission  
 35 to hire, develop, and organize a staff to perform the functions of the Commission,

1 including analyzing data submitted to the Commission and participating in  
2 proceedings as provided in § 3-104 of this article.

3 (2) As the Commission considers necessary, the Commission shall hire  
4 experts including economists, cost of capital experts, rate design experts, accountants,  
5 engineers, transportation specialists, and lawyers.

6 (3) The Commission may retain on a case by case basis additional  
7 experts as required for a particular matter.

8 (4) The lawyers who represent the Commission staff in proceedings  
9 before the Commission shall be appointed by the Commission and shall be organized  
10 and operate independently of the office of General Counsel.

11 (5) (i) As required, the Commission shall hire hearing examiners.

12 (ii) Hearing examiners are a separate organizational unit and shall  
13 report directly to the Commission.

14 (6) The Commission shall hire personal staff members for each  
15 commissioner as required to provide advice, draft proposed orders and rulings, and  
16 perform other personal staff functions.

17 (7) Subject to § 3-104 of this article, the Commission may delegate to a  
18 commissioner or personnel the authority to perform an administrative function  
19 necessary to carry out a duty of the Commission.

20 (8) (i) Except as provided in paragraph (ii) of this item or otherwise by  
21 law, all personnel of the Commission are subject to the provisions of the State  
22 Personnel and Pensions Article.

23 (ii) The following are in the executive service, management service,  
24 or are special appointments in the State Personnel Management System:

- 25 1. each commissioner of the Commission;
- 26 2. the Executive Director;
- 27 3. the General Counsel and each assistant general counsel;
- 28 4. the People's Counsel;
- 29 5. the commissioners' personal staff members; [and]
- 30 6. each license hearing officer; AND
- 31 7. ALL COMMISSION PERSONNEL IN POSITIONS IN:
- 32 A. THE MANAGEMENT SERVICE;
- 33 ~~A.~~ B. THE PROFESSIONAL SERVICE; AND

1                                   ~~B.~~    C.     THE SKILLED SERVICE WHO ARE EMPLOYED AS  
2 ACCOUNTANTS, AUDITORS, AND ENGINEERS.

3       (E)    ~~THE COMPENSATION OF PERSONNEL UNDER SUBSECTION (D) OF THIS~~  
4 ~~SECTION SHALL BE DETERMINED BY THE COMMISSION AND, IF POSSIBLE, IN~~  
5 ~~ACCORDANCE WITH THE STATE PAY PLAN. THE COMPENSATION OF THE FOLLOWING~~  
6 ~~PERSONNEL SHALL BE DETERMINED BY THE COMMISSION AND, IF POSSIBLE, IN~~  
7 ~~ACCORDANCE WITH THE STATE PAY PLAN:~~

8                   ~~(I)~~    (1)     THE SPECIAL APPOINTMENT ATTORNEYS IN THE OFFICE OF  
9 GENERAL COUNSEL;

10                  ~~(II)~~   (2)     EACH LICENSE HEARING OFFICER; AND

11                  ~~(III)~~   (3)     ALL COMMISSION PERSONNEL IN POSITIONS IN:

12                               I     (I)     THE PROFESSIONAL SERVICE;

13                               II    (II)    THE MANAGEMENT SERVICE; AND

14                               III   (III)   THE SKILLED SERVICE WHO ARE EMPLOYED AS  
15 ACCOUNTANTS, AUDITORS, AND ENGINEERS.

16       (F)    (1)     AT LEAST 45 DAYS BEFORE THE EFFECTIVE DATE OF THE CHANGE,  
17 THE COMMISSION SHALL SUBMIT TO THE SECRETARY OF BUDGET AND  
18 MANAGEMENT EACH CHANGE TO SALARY PLANS THAT INVOLVES INCREASES OR  
19 DECREASES IN SALARY RANGES OTHER THAN THOSE ASSOCIATED WITH ROUTINE  
20 RECLASSIFICATIONS AND PROMOTIONS OR GENERAL SALARY INCREASES APPROVED  
21 BY THE GENERAL ASSEMBLY.

22                   (2)     REPORTABLE CHANGES INCLUDE CREATION OR ABOLITION OF  
23 CLASSES, REGRADING THE CLASSES FROM ONE ESTABLISHED RANGE TO ANOTHER,  
24 OR CREATION OF NEW PAY SCHEDULES OR RANGES.

25                   (3)     THE SECRETARY OF BUDGET AND MANAGEMENT SHALL:

26                               (I)     REVIEW THE PROPOSED CHANGES; AND

27                               (II)    AT LEAST 15 DAYS BEFORE THE EFFECTIVE DATE OF THE  
28 PROPOSED CHANGES, ADVISE THE COMMISSION WHETHER THE CHANGES WOULD  
29 HAVE AN ADVERSE EFFECT ON COMPARABLE STATE JOBS.

30                   (4)     FAILURE OF THE SECRETARY TO RESPOND IN A TIMELY MANNER IS  
31 NOT CONSIDERED A STATEMENT OF ADVERSE EFFECT.

32       (G)    ON OR BEFORE JANUARY 31 OF EACH YEAR, THE COMMISSION SHALL  
33 REPORT TO THE SECRETARY OF BUDGET AND MANAGEMENT AND, SUBJECT TO §  
34 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY SETTING  
35 FORTH ALL PERSONNEL POSITIONS, CLASSIFICATIONS, AND SALARIES IN THE  
36 COMMISSION AS OF THE END OF THE PRECEDING CALENDAR YEAR.

1 2-110.

2 (a) (1) (i) Subject to paragraphs (2) and (3) of this subsection, the costs  
3 and expenses of the Commission AND THE OFFICE OF PEOPLE'S COUNSEL shall be  
4 borne by the public service companies that are subject to the Commission's  
5 jurisdiction.

6 (ii) The costs and expenses shall be assessed as provided in this  
7 section.

8 (2) (I) An appropriation for the costs and expenses of the  
9 [Commission] OFFICE OF PEOPLE'S COUNSEL shall be included in the State budget  
10 and paid from the State treasury.

11 [(3)] (II) The State treasury shall be reimbursed [from the money  
12 collected under this section] UNDER SUBSECTION (D)(2)(I) OF THIS SECTION FOR THE  
13 COSTS AND EXPENSES OF THE OFFICE OF PEOPLE'S COUNSEL.

14 (3) THE COSTS AND EXPENSES OF THE COMMISSION, OTHER THAN THE  
15 OFFICE OF PEOPLE'S COUNSEL, SHALL BE PAID FROM THE PUBLIC SERVICE  
16 COMMISSION FUND.

17 (b) (1) (i) Before each State fiscal year, the Chairman of the Commission  
18 shall estimate the Commission's total costs and expenses, including:

19 1. the compensation and expenses of the Commission, its  
20 officers, agents, and personnel;

21 2. the cost of retirement contributions, Social Security,  
22 health insurance, and other benefits required to be paid by the State for the personnel  
23 of the Commission;

24 3. all other maintenance and operation expenses; and

25 4. all other direct and indirect costs.

26 (ii) The estimate shall exclude the costs of maintaining testing  
27 equipment reimbursable under § 2-111(a) of this subtitle.

28 (2) Based on the estimate, the Chairman shall determine the amount to  
29 be paid by each public service company.

30 (3) The Commission shall send a bill to each public service company on  
31 or before May 1st of each year.

32 (4) The bill shall equal the product of:

33 (i) the estimated total costs and expenses of the Commission  
34 during the next fiscal year; multiplied by

1 (ii) the ratio of the gross operating revenues for the public service  
2 company derived from intrastate utility operations in the preceding calendar year, or  
3 other 12-month period as the Chairman determines, to the total of the gross  
4 operating revenues derived from intrastate utility operations for all public service  
5 companies that are billed under this section over that period.

6 (5) The minimum bill for a public service company shall be \$10.

7 (6) The public service company:

8 (i) shall pay the bill on or before the next July 15th; or

9 (ii) may elect to make partial payments on the 15th days of July,  
10 October, January, and April.

11 (7) A partial payment shall equal 25% of the bill and may not be less  
12 than \$10.

13 (8) During any State fiscal year, the Chairman may change the estimate  
14 of costs and expenses of the Commission.

15 (9) (i) If the estimate is changed, the Commission shall send a revised  
16 bill to each public service company that has elected to make partial payments.

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

19 (10) (i) On or before September 15th of each year, the Chairman shall  
20 compute the actual costs and expenses of the Commission for the preceding fiscal  
21 year.

22 (ii) After deducting the amounts recovered under § 2-111(a) of this  
23 subtitle, on or before October 15th, the Chairman shall send to any public service  
24 company that is affected a statement that shows the amount due or the amount to the  
25 credit of the public service company.

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

28 (ii) At the option of the public service company, an amount to the  
29 credit of a public service company shall be refunded or applied against any succeeding  
30 payment due.

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

33 (i) 0.17% of the public service company's gross operating revenues  
34 derived from intrastate utility operations in the preceding calendar year, or other  
35 12-month period that the Chairman determines, for the costs and expenses of the  
36 Commission other than that of the Office of People's Counsel; plus

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

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

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

9 (D) ~~(1) THE TOTAL FEES ASSESSED BY THE COMMISSION UNDER THIS~~  
10 ~~SECTION MAY NOT EXCEED \$10,000,000 IN ANY FISCAL YEAR.~~

11 ~~(2) THE COMMISSION SHALL PAY THE FUNDS COLLECTED FROM FEES~~  
12 ~~ASSESSED UNDER THIS SECTION:~~

13 ~~(1) INTO THE GENERAL FUND OF THE STATE, FOR THE COSTS~~  
14 ~~AND EXPENSES OF THE OFFICE OF PEOPLE'S COUNSEL DETERMINED UNDER~~  
15 ~~SUBSECTION (B)(12)(II) OF THIS SECTION; AND~~

16 ~~(2) INTO THE PUBLIC SERVICE COMMISSION FUND, IN AN~~  
17 ~~AMOUNT NOT TO EXCEED \$10,000,000, FOR THE OTHER COSTS AND EXPENSES OF THE~~  
18 ~~COMMISSION.~~

19 (E) (1) THERE IS A PUBLIC SERVICE COMMISSION FUND.

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

22 (3) THE TREASURER SHALL SEPARATELY HOLD, AND THE  
23 COMPTROLLER SHALL ACCOUNT FOR, THE FUND.

24 (4) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME  
25 MANNER AS OTHER STATE FUNDS.

26 (5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT  
27 OF THE FUND.

28 (6) THE FUND SHALL BE SUBJECT TO AN AUDIT BY THE OFFICE OF  
29 LEGISLATIVE AUDITS AS PROVIDED FOR IN § 2-1220 OF THE STATE GOVERNMENT  
30 ARTICLE.

31 (7) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE FUND  
32 FROM RECEIVING FUNDS FROM ANY OTHER SOURCE.

33 (8) THE FUND SHALL BE USED ONLY TO PROVIDE FUNDING FOR THE  
34 COMMISSION AND FOR THE PURPOSES AUTHORIZED UNDER THIS ARTICLE.

1 2-203.

2 (a) The State budget shall provide sufficient money for the Office of People's  
3 Counsel to hire necessary staff in addition to the staff assistance that is provided  
4 under § 2-205(c)(2) of this subtitle.

5 (b) The Office of People's Counsel may retain as necessary for a particular  
6 matter or hire experts in the field of utility regulation, including cost of capital  
7 experts, rate design experts, accountants, economists, engineers, transportation  
8 specialists, and lawyers.

9 **Article—State Finance and Procurement**

10 ~~11-203.~~

11 (a) Except as provided in subsection (b) of this section, this Division II does  
12 not apply to:

13 (1) procurement by:

14 (xv) the Forum for Rural Maryland; [and]

15 (xvi) the Maryland State Lottery Agency, for negotiating and  
16 entering into private sector cooperative marketing projects that directly enhance  
17 promotion of the Maryland State Lottery and its products, if the cooperative  
18 marketing project:

19 1. provides a substantive promotional or marketing value  
20 that the lottery determines acceptable in exchange for advertising or other  
21 promotional activities provided by the lottery;

22 2. does not involve the advertising or other promotion of  
23 alcohol or tobacco products; and

24 3. is reviewed by the Attorney General and approved by the  
25 Maryland Lottery Director or the Director's designee; AND

26 (XVII) ~~THE PUBLIC SERVICE COMMISSION.~~

27 (b) (1) The following provisions of this Division II apply to each procurement  
28 enumerated in subsection (a) of this section:

29 (i) § 11-205 of this subtitle ("Fraud in procurement");

30 (ii) § 12-204 of this article ("Board approval for designated  
31 contracts");

32 (iii) Title 12, Subtitle 2 of this article ("Supervision of Capital  
33 Expenditures and Real Property Leases");

- 1 (iv) § 13-219 of this article ("~~Required clauses—Nondiscrimination~~  
2 ~~clause~~");
- 3 (v) § 13-221 of this article ("~~Disclosures to Secretary of State~~");
- 4 (vi) Title 16 of this article ("~~Debarment of Contractors~~"); and
- 5 (vii) Title 17 of this article ("~~Special Provisions—State and Local~~  
6 ~~Subdivisions~~").

7 (2) A procurement by an entity listed in subsection (a)(1)(i) through (xv)  
8 of this section shall be made under procedures that promote the purposes stated in §  
9 11-201(a) of this subtitle.

10 (3) (i) A unit that procures human, social, or educational services from  
11 an entity enumerated in subsection (a)(2) of this section shall publish in the Contract  
12 Weekly notice of a procurement contract or an extension or renewal of a procurement  
13 contract if:

14 1. the procurement contract, extension, or renewal costs  
15 more than \$25,000; and

16 2. the procurement is made for 3rd party clients described in  
17 § 13-106 of this article.

18 (ii) The notice required under this paragraph shall be published not  
19 more than 30 days after the execution and approval of the procurement contract or  
20 the extension or renewal of the procurement contract.

21 (4) The purchase of advisory services from the General Selection Board  
22 or the Transportation Selection Board under § 13-305 of this article shall be governed  
23 by the Maryland Architectural and Engineering Services Act.

24 SECTION 2. AND BE IT FURTHER ENACTED, That any funds collected by  
25 the Public Service Commission under § 2-110 of the Public Utility Companies Article  
26 that remain unexpended or unallocated to the Commission or the Office of People's  
27 Counsel as of June 30, 1999 shall be divided proportionally and paid into the Public  
28 Service Commission Fund and the State treasury, respectively, in accordance with §  
29 2-110(d)(2) of the Public Utility Companies Article as enacted by this Act.

30 SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of §  
31 2-108(d)(8)(ii)7 of the Public Utility Companies Article, as enacted by Section 1 of this  
32 Act, shall apply to and be construed to affect Commission personnel in new positions  
33 ~~and in positions that were~~ in existence on or after July 1, 1999.

34 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
35 July 1, 1999.

