
By: **Delegates Guns, Owings, Hammen, Rawlings, Conway, and Taylor**
Introduced and read first time: February 12, 1999
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 16, 1999

CHAPTER _____

1 AN ACT concerning

2 **Public Service Commission - Funding, 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, personnel, and
14 procurement.

15 BY repealing and reenacting, with amendments,
16 Article - Public Utility Companies
17 Section 2-108(d) and 2-110
18 Annotated Code of Maryland
19 (1998 Volume)

20 BY adding to
21 Article - Public Utility Companies
22 Section 2-108(e) through (g)
23 Annotated Code of Maryland
24 (1998 Volume)

1 BY repealing and reenacting, without amendments,
2 Article - Public Utility Companies
3 Section 2-203
4 Annotated Code of Maryland
5 (1998 Volume)

6 ~~BY repealing and reenacting, with amendments,
7 Article - State Finance and Procurement
8 Section 11-203(a)(1)(xv) and (xvi)
9 Annotated Code of Maryland
10 (1995 Replacement Volume and 1998 Supplement)~~

11 ~~BY adding to
12 Article - State Finance and Procurement
13 Section 11-203(a)(1)(xvii)
14 Annotated Code of Maryland
15 (1995 Replacement Volume and 1998 Supplement)~~

16 ~~BY repealing and reenacting, without amendments,
17 Article - State Finance and Procurement
18 Section 11-203(b)
19 Annotated Code of Maryland
20 (1995 Replacement Volume and 1998 Supplement)~~

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

23 **Article - Public Utility Companies**

24 2-108.

25 (d) (1) The State budget shall provide sufficient money for the Commission
26 to hire, develop, and organize a staff to perform the functions of the Commission,
27 including analyzing data submitted to the Commission and participating in
28 proceedings as provided in § 3-104 of this article.

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

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

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

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

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

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

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

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

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

- 15 1. each commissioner of the Commission;
- 16 2. the Executive Director;
- 17 3. the General Counsel and each assistant general counsel;
- 18 4. the People's Counsel;
- 19 5. the commissioners' personal staff members; [and]
- 20 6. each license hearing officer; AND
- 21 7. ALL COMMISSION PERSONNEL IN POSITIONS IN:

22 A. MANAGEMENT SERVICE;

23 ~~A.~~ B. THE PROFESSIONAL SERVICE; AND

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

26 ~~(E) THE COMPENSATION OF PERSONNEL UNDER SUBSECTION (D) OF THIS~~
27 ~~SECTION SHALL BE DETERMINED BY THE COMMISSION AND, IF POSSIBLE, IN~~
28 ~~ACCORDANCE WITH THE STATE PAY PLAN. THE COMPENSATION OF THE FOLLOWING~~
29 ~~PERSONNEL SHALL BE DETERMINED BY THE COMMISSION AND, IF POSSIBLE, IN~~
30 ~~ACCORDANCE WITH THE STATE PAY PLAN;~~

31 (I) THE SPECIAL APPOINTMENT ATTORNEYS IN THE OFFICE OF
32 GENERAL COUNSEL;

33 (II) EACH LICENSE HEARING OFFICER; AND

- 1 (III) ALL COMMISSION PERSONNEL IN POSITIONS IN:
- 2 1. THE PROFESSIONAL SERVICE;
- 3 2. THE MANAGEMENT SERVICE; AND
- 4 3. THE SKILLED SERVICE WHO ARE EMPLOYED AS ACCOUNTANTS,
- 5 AUDITORS, AND ENGINEERS.

6 (F) (1) AT LEAST 45 DAYS BEFORE THE EFFECTIVE DATE OF THE CHANGE,
7 THE COMMISSION SHALL SUBMIT TO THE SECRETARY OF BUDGET AND
8 MANAGEMENT EACH CHANGE TO SALARY PLANS THAT INVOLVES INCREASES OR
9 DECREASES IN SALARY RANGES OTHER THAN THOSE ASSOCIATED WITH ROUTINE
10 RECLASSIFICATIONS AND PROMOTIONS OR GENERAL SALARY INCREASES APPROVED
11 BY THE GENERAL ASSEMBLY.

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

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

16 (I) REVIEW THE PROPOSED CHANGES; AND

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

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

22 (G) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE COMMISSION SHALL
23 REPORT TO THE SECRETARY OF BUDGET AND MANAGEMENT AND, SUBJECT TO §
24 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY SETTING
25 FORTH ALL PERSONNEL POSITIONS, CLASSIFICATIONS, AND SALARIES IN THE
26 COMMISSION AS OF THE END OF THE PRECEDING CALENDAR YEAR.

27 2-110.

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

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

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

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

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

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

9 1. the compensation and expenses of the Commission, its
10 officers, agents, and personnel;

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

14 3. all other maintenance and operation expenses; and

15 4. all other direct and indirect costs.

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

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

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

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

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

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

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

31 (6) The public service company:

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

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

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

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

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

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

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

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

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

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

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

23 (i) 0.17% of the public service company's gross operating revenues
24 derived from intrastate utility operations in the preceding calendar year, or other
25 12-month period that the Chairman determines, for the costs and expenses of the
26 Commission other than that of the Office of People's Counsel; plus

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

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

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

35 (D) ~~(4) THE TOTAL FEES ASSESSED BY THE COMMISSION UNDER THIS~~
36 ~~SECTION MAY NOT EXCEED \$10,000,000 IN ANY FISCAL YEAR.~~

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

3 (I) INTO THE GENERAL FUND OF THE STATE, FOR THE COSTS AND
4 EXPENSES OF THE OFFICE OF PEOPLE'S COUNSEL DETERMINED UNDER
5 SUBSECTION (B)(12)(II) OF THIS SECTION; AND

6 (II) INTO THE PUBLIC SERVICE COMMISSION FUND, IN AN AMOUNT
7 NOT TO EXCEED \$10,000,000, FOR THE ~~OTHER~~ COSTS AND EXPENSES OF THE
8 COMMISSION.

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

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

12 (3) THE TREASURER SHALL SEPARATELY HOLD, AND THE
13 COMPTROLLER SHALL ACCOUNT FOR, THE FUND.

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

16 (5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT
17 OF THE FUND.

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

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

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

25 2-203.

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

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

Article—State Finance and Procurement

2 ~~11-203.~~

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

5 (1) procurement by:

6 (xv) the Forvm for Rural Maryland; [and]

7 (xvi) the Maryland State Lottery Agency, for negotiating and
8 entering into private sector cooperative marketing projects that directly enhance
9 promotion of the Maryland State Lottery and its products, if the cooperative
10 marketing project:

11 1. provides a substantive promotional or marketing value
12 that the lottery determines acceptable in exchange for advertising or other
13 promotional activities provided by the lottery;

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

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

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

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

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

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

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

26 (iv) § 13-219 of this article ("Required clauses—Nondiscrimination
27 clause");

28 (v) § 13-221 of this article ("Disclosures to Secretary of State");

29 (vi) Title 16 of this article ("Debarment of Contractors"); and

30 (vii) Title 17 of this article ("Special Provisions—State and Local
31 Subdivisions").

1 (2) A procurement by an entity listed in subsection (a)(1)(i) through (xv)
 2 of this section shall be made under procedures that promote the purposes stated in §
 3 11-201(a) of this subtitle.

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

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

10 2. the procurement is made for 3rd party clients described in
 11 § 13-106 of this article.

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

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That any funds collected by
 19 the Public Service Commission under § 2-110 of the Public Utility Companies Article
 20 that remain unexpended or unallocated to the Commission or the Office of People's
 21 Counsel as of June 30, 1999 shall be divided proportionally and paid into the Public
 22 Service Commission Fund and the State treasury, respectively, in accordance with §
 23 2-110(d)(2) of the Public Utility Companies Article as enacted by this Act.

24 SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of §
 25 2-108(d)(8)(ii)7 of the Public Utility Companies Article, as enacted by this Act, shall
 26 be construed to affect Commission personnel in new positions and in positions that
 27 were in existence on July 1, 1999.

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