

SENATE BILL 171

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C5

1999 Regular Session
(91r0832)

ENROLLED BILL
-- Finance/Environmental Matters --

Introduced by **Senator Bromwell**

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.

President.

CHAPTER _____

1 AN ACT concerning

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

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

1 BY repealing and reenacting, with amendments,
2 Article - Public Utility Companies
3 Section 2-108(d) and 2-110
4 Annotated Code of Maryland
5 (1998 Volume)

6 BY adding to
7 Article - Public Utility Companies
8 Section 2-108(e) through (g)
9 Annotated Code of Maryland
10 (1998 Volume)

11 BY repealing and reenacting, without amendments,
12 Article - Public Utility Companies
13 Section 2-203
14 Annotated Code of Maryland
15 (1998 Volume)

16 ~~BY repealing and reenacting, with amendments,~~
17 ~~Article - State Finance and Procurement~~
18 ~~Section 11-203(a)(1)(xv) and (xvi)~~
19 ~~Annotated Code of Maryland~~
20 ~~(1995 Replacement Volume and 1998 Supplement)~~

21 ~~BY adding to~~
22 ~~Article - State Finance and Procurement~~
23 ~~Section 11-203(a)(1)(xvii)~~
24 ~~Annotated Code of Maryland~~
25 ~~(1995 Replacement Volume and 1998 Supplement)~~

26 ~~BY repealing and reenacting, without amendments,~~
27 ~~Article - State Finance and Procurement~~
28 ~~Section 11-203(b)~~
29 ~~Annotated Code of Maryland~~
30 ~~(1995 Replacement Volume and 1998 Supplement)~~

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

1 **Article - Public Utility Companies**

2 2-108.

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

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

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

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

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

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

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

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

24 (8) (i) Except as provided in ~~{paragraph (ii)}~~ ~~PARAGRAPHS (II) AND~~
25 ~~(III)~~ of this item or otherwise by law, all personnel of the Commission are subject to
26 the provisions of the State Personnel and Pensions Article.

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

- 29 1. each commissioner of the Commission;
- 30 2. the Executive Director;
- 31 3. the General Counsel and each assistant general counsel;
- 32 4. the People's Counsel;
- 33 5. the commissioners' personal staff members; [and]
- 34 6. each license hearing officer; AND

1 7. ALL COMMISSION PERSONNEL ~~HIRED TO POSITIONS IN~~
2 ~~THE PROFESSIONAL SERVICE AFTER JUNE 30, 1999~~ IN POSITIONS IN:

3 A. THE MANAGEMENT SERVICE;

4 B. THE PROFESSIONAL SERVICE; AND

5 C. THE SKILLED SERVICE WHO ARE EMPLOYED AS
6 ACCOUNTANTS, AUDITORS, AND ENGINEERS.

7 ~~(H) IF A POSITION IS HELD BY AN EMPLOYEE IN THE~~
8 ~~PROFESSIONAL SERVICE IN THE STATE PERSONNEL MANAGEMENT SERVICE ON~~
9 ~~JUNE 30, 1999, THE POSITION SHALL BE DESIGNATED AS A SPECIAL APPOINTMENT~~
10 ~~WHEN THE POSITION BECOMES VACANT.~~

11 ~~(E) EXCEPT FOR COMMISSION PERSONNEL IN POSITIONS SUBJECT TO~~
12 ~~SUBSECTION (D)(8)(H) OF THIS SECTION, THE COMPENSATION OF PERSONNEL~~
13 ~~UNDER SUBSECTION (D) OF THIS SECTION SHALL BE DETERMINED BY THE~~
14 ~~COMMISSION AND, IF POSSIBLE, IN ACCORDANCE WITH THE STATE PAY PLAN.~~

15 (E) THE COMPENSATION OF THE FOLLOWING PERSONNEL SHALL BE
16 DETERMINED BY THE COMMISSION AND, IF POSSIBLE, IN ACCORDANCE WITH THE
17 STATE PAY PLAN:

18 (1) THE SPECIAL APPOINTMENT ATTORNEYS IN THE OFFICE OF THE
19 GENERAL COUNSEL;

20 (2) EACH LICENSE HEARING OFFICER; AND

21 (3) ALL COMMISSION PERSONNEL IN POSITIONS IN:

22 ~~(I)~~ THE MANAGEMENT SERVICE;

23 ~~(H)~~ THE PROFESSIONAL SERVICE; AND

24 (I) THE PROFESSIONAL SERVICE;

25 (II) THE MANAGEMENT SERVICE; AND

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

28 (F) (1) AT LEAST 45 DAYS BEFORE THE EFFECTIVE DATE OF THE CHANGE,
29 THE COMMISSION SHALL SUBMIT TO THE SECRETARY OF BUDGET AND
30 MANAGEMENT EACH CHANGE TO SALARY PLANS THAT INVOLVES INCREASES OR
31 DECREASES IN SALARY RANGES OTHER THAN THOSE ASSOCIATED WITH ROUTINE
32 RECLASSIFICATIONS AND PROMOTIONS OR GENERAL SALARY INCREASES APPROVED
33 BY THE GENERAL ASSEMBLY.

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

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

5 (I) REVIEW THE PROPOSED CHANGES; AND

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

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

11 (G) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE COMMISSION SHALL
12 REPORT TO THE SECRETARY OF BUDGET AND MANAGEMENT AND, SUBJECT TO §
13 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY SETTING
14 FORTH ALL PERSONNEL POSITIONS, CLASSIFICATIONS, AND SALARIES IN THE
15 COMMISSION AS OF THE END OF THE PRECEDING CALENDAR YEAR.

16 2-110.

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

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

22 (2) (1) An appropriation for the costs and expenses of the
23 [Commission] OFFICE OF PEOPLE'S COUNSEL shall be included in the State budget
24 and paid from the State treasury.

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

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

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

33 1. the compensation and expenses of the Commission, its
34 officers, agents, and personnel;

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

4 3. all other maintenance and operation expenses; and

5 4. all other direct and indirect costs.

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

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

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

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

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

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

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

21 (6) The public service company:

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

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

25 (7) A partial payment shall equal 25% of the bill and may not be less than
26 \$10.

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

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

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

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

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

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

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

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

12 (i) 0.17% of the public service company's gross operating revenues
13 derived from intrastate utility operations in the preceding calendar year, or other
14 12-month period that the Chairman determines, for the costs and expenses of the
15 Commission other than that of the Office of People's Counsel; plus

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

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

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

24 (D) THE COMMISSION SHALL PAY THE FUNDS COLLECTED FROM FEES
25 ASSESSED UNDER THIS SECTION:

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

29 (2) INTO THE PUBLIC SERVICE COMMISSION FUND, IN AN AMOUNT NOT
30 TO EXCEED \$10,000,000, FOR THE COSTS AND EXPENSES OF THE COMMISSION.

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

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

34 (3) THE TREASURER SHALL SEPARATELY HOLD, AND THE
35 COMPTROLLER SHALL ACCOUNT FOR, THE FUND.

1 *that remain unexpended or unallocated to the Commission or the Office of People's*
2 *Counsel as of June 30, 1999 shall be divided proportionally and paid into the Public*
3 *Service Commission Fund and the State treasury, respectively, in accordance with §*
4 *2-110(d)(2) of the Public Utility Companies Article as enacted by this Act.*

5 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That the provisions of §
6 2-108(d)(8)(ii)7 of the Public Utility Companies Article, as enacted by Section 1 of this
7 Act, shall apply to and be construed to affect Commission personnel in positions in
8 existence on or after July 1, 1999.

9 SECTION ~~2~~ ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
10 effect July 1, 1999.