

CHAPTER 54

(HB 238)

AN ACT relating to city utility commission membership.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

→Section 1. KRS 96.530 is amended to read as follows:

- (1) Any city acquiring or constructing an electric light, heat, and power plant under the provisions of KRS 96.520 shall, by ordinance, appoint a city utility commission consisting of *either* three (3) commissioners *or five (5) commissioners* to operate, manage, and control the plant, ~~except that a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census shall appoint five (5) commissioners.~~ The utility commission shall have absolute control of the plant in every respect, including its operation and fiscal management and the regulation of rates, except that in fixing rates the commission shall be governed by the provisions of KRS 96.430, as it is made applicable to those plants by KRS 96.520, and by any ordinance enacted under that section, except that in fixing rates the commission in a city with a population equal to or greater than eight thousand (8,000) based upon the most recent federal decennial census shall be governed by the provisions of KRS 96.535 and any ordinance enacted according to this section. The utility commission, when so appointed, shall be a public body politic and corporate, with perpetual succession; and the body may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The utility commission shall provide rules for the management of the plant, and it shall fix the number, qualifications, pay, and terms of employment of all employees needed to operate the plant. In cities with populations equal to or greater than eight thousand (8,000) based upon the most recent federal decennial census providing civil service coverage for city employees, the utility commission appointed under this section may provide civil service coverage for all of its employees, and it shall exercise the powers and functions with respect to their employees which are vested in the city legislative body with respect to the city employees by KRS 90.380. Employees who have been in the employment of the utility commission for one (1) year immediately preceding the adoption of an order by the utility commission placing all of its employees under civil service coverage shall not be required to stand a civil service examination, and they shall be eligible for all the benefits provided by civil service coverage. Out of the revenue of the plant, it shall pay operating expenses, repairs, and necessary additions and provide sufficient reserve fund against any emergency that may arise. The commission shall from time to time pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.430 and 96.440, as they are made applicable to the plants by KRS 96.520, except that the commission in a city with a population equal to or greater than eight thousand (8,000) based upon the most recent federal decennial census shall pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.535 and any ordinance adopted according to this section. Notwithstanding the foregoing provisions, the utility commission, for the purpose stated in KRS 96.520(1), may enter into an agreement for the operation of any of its plants or other facilities.
- (2)
 - (a) Except as provided in KRS 61.070, no person shall be appointed a member of the commission who has, within the last two (2) years before his appointment, held any city, county, state, or federal office, or been a member of any committee of any political party, or who is related within the third degree to the mayor, or a member of a city legislative body.
 - (b) The commission shall not appoint to any subordinate office that it may create any person who is related to any commissioner, to the mayor or to any member of the city legislative body. No officer or employee of the city, whether holding a paid or unpaid office, shall be eligible to be appointed as a member of the commission or to be employed by the commission in any capacity.
 - (c) The members of the commission shall be citizens, taxpayers, and legal voters of the city and shall not at the time of appointment be indebted to the city or be surety on the official bond of any officer of the city. However, *in cities with three (3) commission members*, one (1) commission member may be appointed *who does not live within the city boundaries, and, in cities with five (5) commission members, no more than two (2) commission members may be appointed who do not live within the city boundaries. In both instances, the appointment or appointments shall occur only if the appointing authority determines that each appointee:*
 1. *Is a resident of a county in which the utility operates;*

2. *Possesses qualifications and expertise that would benefit and be in the best interests of the city utility; and*
3.
 - a. *Is not employed by;*
 - b. *Is not serving in any fiduciary or agency capacity with; or*
 - c. *Does not possess an ownership interest in;*
a direct supplier or direct competitor of the city utility~~[who lives in a portion of the utility's service area that is not within the city if that portion contains ten percent (10%) or more of the utility's customers and that member has been a customer of the utility for not less than one (1) year].~~
- (d) If at any time during his *or her* term of office any member of the commission becomes a candidate for or is elected or appointed to any public office, he *or she* shall automatically vacate his *or her* membership on the commission, and another person shall be appointed in his *or her* place.
- (3) The city shall pay the cost of securing bonds for the commissioners from a surety company, and each commissioner shall execute bond to be approved by the city legislative body.
- (4) The city legislative body shall fix the salary to be paid each member of the commission at a sum not to exceed two thousand four hundred dollars (\$2,400) per annum. The Department for Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the Consumer Price Index of the preceding year by using 1998 as the base year, and the salary of the commissioners may be adjusted at a rate no greater than that stipulated by the Department for Local Government.
- (5) The first commissioners appointed under this section shall be appointed one (1) for the term of one (1) year, one (1) for the term of two (2) years, and one (1) for the term of three (3) years. Upon the expiration of the first terms, successors shall be appointed for a term of three (3) years. On a commission with five (5) members, not more than two (2) members shall hold concurrent terms of office.
- (6) All commission members appointed subsequent to the initial members shall be appointed by the mayor or chief executive of the municipality, with the approval of the governing body of the municipality.

Signed by Governor March 19, 2021.