

## CHAPTER 185

( SB 8 )

AN ACT relating to public utilities and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *The Public Service Commission shall consist of five (5) members appointed by the Governor as follows:*
  - (a) *Two (2) shall be licensed attorneys who have actively practiced law in the Commonwealth for at least seven (7) years; and*
  - (b) *Three (3) shall have education or training, and five (5) years of actual experience, in one (1) or more of the following fields:*
    1. *Economics;*
    2. *Engineering;*
    3. *Accounting;*
    4. *Finance;*
    5. *Utility regulation, operation, or management;*
    6. *Pipeline or utility infrastructure safety;*
    7. *Business management; or*
    8. *Environmental management.*
- (2) *Appointments and reappointments to the commission shall be subject to confirmation by the Senate as provided in KRS 11.160.*
- (3)
  - (a) *Every four (4) years, the commissioners shall elect a chair from among the commissioners, who shall serve a four (4) year term or until his or her term expires without reappointment, whichever comes first.*
  - (b) *Members of the commission may serve multiple terms as chair subject to the term limitations set forth in subsection (5) of this section.*
  - (c) *The chair shall be the chief executive officer of the commission and shall designate one (1) of the commissioners to serve as vice chair to act for the chair in his or her absence.*
  - (d) *The chair may designate in writing one (1) or more commissioners or the executive director to act for him or her in the event of his or her absence or inability for any reason to discharge the duties of the position. The designee of the chair shall have all of the duties and powers of the chair for the duration of the designation, except that the executive director shall not serve as a member of the commission on any cases before the commission.*
- (4) *Vacancies for unexpired terms shall be filled in the same manner as the original appointments, but the appointee shall hold office only until the end of the unexpired term and shall be subject to confirmation by the Senate as provided in KRS 11.160.*
- (5) *Members of the commission shall serve no more than three (3) terms, but any terms or partial terms served prior to the effective date of this Act shall not be counted toward the term limits established by this subsection.*
- (6) *After the initial appointments, a member of the commission shall serve for a term of four (4) years and until a successor is appointed and qualified.*
- (7) *No more than three (3) members of the commission shall be of the same political party, and members of the commission shall not serve on any other regulatory bodies during their terms on the commission.*

➔Section 2. KRS 278.040 is amended to read as follows:

- (1) (a) *The Public Service Commission shall constitute an independent department of state government within the meaning of KRS Chapter 12 and shall be administratively attached to the Energy and Environment Cabinet only for those limited functions and purposes expressly requested by the commission to be performed by the Energy and Environment Cabinet.*
- (b) *The commission shall have sole discretion as to which functions shall be deemed necessary for its efficient operation.*
- (c) *The commission shall consist of the five (5) commissioners appointed under Section 1 of this Act, an executive director appointed under Section 5 of this Act, and other agents and employees as necessary to carry out the commission's obligations under this chapter.*
- (2) *Notwithstanding any provision of law to the contrary:*
  - (a) *The commission shall conduct all procurements necessary for the performance of its duties in accordance with the procurement procedures outlined in KRS Chapter 45A, this chapter, and the administrative regulations promulgated under this chapter, but the commission shall not be subject to any provision of KRS Chapter 45A that requires the approval of any Finance and Administration Cabinet official for the commission to proceed with any aspect of the procurement process;*
  - (b) *Upon approval of the commission, the executive director shall be deemed the chief purchasing officer for the purposes of conducting procurements for the commission and shall have all of the authority and responsibility with regard to the commission's procurements as the secretary of the Finance and Administration Cabinet has for procurements under KRS Chapter 45A; and*
  - (c) *In the bidding and negotiation processes, the executive director, upon approval of the commission, shall perform his or her own bidding and procurement in accordance with the procedures established by KRS Chapter 45A.*
- (3) (a) *Except as provided in paragraph (b) of this subsection, in any matter to be decided by the commission, the chair of the commission shall assign three (3) commissioners to hear and decide the matter. No more than two (2) of the assigned commissioners shall be of the same political party.*
- (b) *In his or her sole discretion, the chair may assign all five (5) commissioners to hear and decide a matter before the commission.*
- (4) (a) *Notwithstanding Section 8 of this Act or any provision of KRS Chapter 18A to the contrary, the commission may, in its sole discretion, identify and determine the compensation for categories of its professional employees at the amounts it deems necessary to recruit and retain employees who have the experience, expertise, and education required to perform their job responsibilities with the commission.*
- (b) *Noncontractual employees of the commission shall otherwise be subject to the requirements and benefits of KRS Chapter 18A.*
- (5) *The commission may engage hearing officers, consultants, and other persons and entities on a contractual basis as needed to assist with the performance of the commission's duties under this chapter and the administrative regulations promulgated thereunder. The scope of responsibilities and duties held by a hearing officer shall be established by the commission by rule.*
- (6) *All personal service contracts entered into by the commission shall be subject to review by the Government Contract Review Committee established by KRS 45A.705.*
- (7) ~~The Public Service~~ *commission shall regulate utilities, and enforce the provisions of this chapter and the rules and administrative regulations promulgated hereunder, and exercise all powers necessary and incidental thereto.* *The commission shall be a body corporate, with power to sue and be sued in its corporate name. The commission may adopt a seal bearing the name "Public Service Commission of Kentucky," which seal shall be affixed to all writs and official documents, and to such other instruments as the commission directs, and all courts shall take judicial note of the seal.*
- (8)~~(2)~~ *The jurisdiction of the commission shall extend to all utilities in this state. The commission shall have exclusive jurisdiction over the regulation of rates and service of utilities, but with that exception nothing in this chapter is intended to limit or restrict the police jurisdiction, contract rights or powers of cities or political subdivisions.*

~~(9)(3)~~ The commission may *promulgate*~~[adopt,]~~ in *accordance*~~[keeping]~~ with KRS Chapter 13A~~[,]~~ reasonable *administrative* regulations to implement the provisions of KRS Chapter 278 and investigate the methods and practices of utilities to require them to conform to the laws of this state, and to all reasonable rules, regulations and orders of the commission not contrary to law.

(10) *The commission shall not be subject to reorganization under KRS Chapter 12.*

➔Section 3. KRS 278.060 is amended to read as follows:

- (1) Each commissioner shall be a resident and qualified voter of this state, not less than twenty-five (25) years of age at the time of his *or her* appointment and qualification, and shall have resided in this state for at least three (3) years prior to his *or her* appointment and qualification. Each commissioner shall take and subscribe to the constitutional oath of office, which shall be recorded in the office of the Secretary of State.
- (2) No person shall be appointed to or hold the office of commissioner who holds, *or whose immediate family member holds*, any official relationship to any utility, or who owns any stocks or bonds thereof, or who has any pecuniary interest therein, *except for a pension or retirement savings account if no contributions have been made to it for at least one (1) year prior to the appointment.*
- (3) No commissioner shall receive any rebate, pass, percentage of contract or other thing of value from any utility.
- (4) In addition to the restrictions on members of the commission set forth in *Section 1 of this Act*~~[KRS 278.050(1)],~~ no commissioner shall engage in any occupation or business inconsistent with his *or her* duties as such commissioner.
- (5) If any commissioner becomes a member of any political party committee, his *or her* office as commissioner shall be thereby vacated.~~]~~

~~(6) In making appointments to the commission, the Governor shall consider the various kinds of expertise relevant to utility regulation and the varied interests to be protected by the commission, including those of consumers as well as utility investors, and no more than two (2) members shall be of the same occupation or profession.]~~

➔Section 4. KRS 278.070 is amended to read as follows:

- (1) The Governor may remove any commissioner for cause, after giving him *or her* a copy of the charges against him *or her* and an opportunity of being publicly heard in person or by counsel in his *or her* own defense upon not less than ten (10) days' notice.
- (2) If a commissioner is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges against the commissioner and his *or her* findings thereon, and a complete record of the proceedings.
- (3) Any commissioner so removed may bring action in the proper court to determine whether or not he *or she* was legally removed in accordance with this section.

➔Section 5. KRS 278.100 is amended to read as follows:

- (1) The commission shall *have the sole authority to* appoint an executive director, *by a majority vote of the members of the commission and subject to confirmation by the Senate pursuant to KRS 11.160*, who shall hold office *at the*~~[during its]~~ pleasure *of the commission* and shall devote his *or her* entire time to the duties of *the*~~[his]~~ office.
- (2) The executive director shall be selected on the basis of experience and training demonstrating capacity to deal with the problems of management and governmental regulation and knowledge relatable to utility regulation.
- (3) The executive director shall be the chief administrative officer for the commission and shall be responsible for implementing the programs, directing the staff, and maintaining the official records of commission proceedings, including all approved orders.

➔Section 6. KRS 278.120 is amended to read as follows:

- ~~(1) The chairman and the other two (2) members of the commission shall be paid a salary fixed under KRS 64.640 to be paid monthly.~~
- ~~(2) Notwithstanding Section 8 of this Act or any provision of KRS Chapter 18A to the contrary, the executive director of the commission shall be paid a salary to be fixed solely by the commission, with the approval of the Governor.]~~

~~(2)(3)~~ The commissioners, the executive director, and employees of the commission are entitled to all expenses, including hotel bills, incurred in traveling on business of the commission.

~~(3)(4)~~ The salaries and expenses provided for by this section, and all other expenses of the commission incurred in the administration of this chapter, shall be paid out of appropriations as provided by law out of the general expenditure fund.

➔Section 7. KRS 278.702 is amended to read as follows:

(1) There is hereby established the Kentucky State Board on Electric Generation and Transmission Siting. The board shall be composed of *nine (9)*~~seven (7)~~ members as follows:

(a) The *five (5)*~~three (3)~~ members of the Kentucky Public Service Commission;

(b) The secretary of the Energy and Environment Cabinet or the secretary's designee;

(c) The secretary of the Cabinet for Economic Development or the secretary's designee;

(d) 1. If the facility subject to board approval is proposed to be located in one (1) county, two (2) ad hoc public members to be appointed by the Governor from a county where a facility subject to board approval is proposed to be located:

a. One (1) of the ad hoc public members shall be the chairman of the planning commission with jurisdiction over an area in which a facility subject to board approval is proposed to be located. If the proposed location is not within a jurisdiction with a planning commission, then the Governor shall appoint either the county judge/executive of a county that contains the proposed location of the facility or the mayor of a city, if the facility is proposed to be within a city; and

b. One (1) of the ad hoc public members shall be appointed by the Governor and shall be a resident of the county in which the facility is proposed to be located.

2. If the facility subject to board approval is proposed to be located in more than one (1) county, two (2) ad hoc public members to be chosen as follows:

a. One (1) ad hoc public member shall be the county judge/executive of a county in which the facility is proposed to be located, to be chosen by majority vote of the county judge/executives of the counties in which the facility is proposed to be located; and

b. One (1) ad hoc public member shall be a resident of a county in which the facility is proposed to be located, and shall be appointed by the Governor.

If a member has not been chosen by majority vote, as provided in subdivision a. of this subparagraph, by thirty (30) days after the filing of the application, the Governor shall directly appoint the member.

3. Ad hoc public members appointed to the board *and their immediate family members* shall have no direct financial interest in the facility proposed to be constructed *and shall be subject to the executive branch code of ethics established in KRS Chapter 11A.*

(2) The term of service for the ad hoc members of the board shall continue until the merchant electric generating facility for which they were appointed has been constructed and begins generating electricity for sale or the construction certificate expires. The remaining members of the board shall be permanent members.

(3) The board shall be attached to the Public Service Commission for administrative purposes. The commission staff shall serve as permanent administrative staff for the board. The members of the board identified in subsection (1)(a) to (d) of this section shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 278.700 to 278.716.

(4) No member of the board shall receive any salary or fee for service on the board or shall have any financial interest in any facility the application for which comes before the board, but each member shall be reimbursed for actual travel and expenses directly related to service on the board.

(5) The *chair*~~chairman~~ of the Public Service Commission shall be the *chair*~~chairman~~ of the board. The *chair*~~chairman~~ shall designate one (1) member of the board as vice *chair*~~chairman~~. A majority of the members of the board shall constitute a quorum for the transaction of business. No vacancy on the board shall impair the right of the remaining members to exercise all of the powers of the board. The board shall convene upon the call of the *chair*~~chairman~~.

➔Section 8. KRS 64.640 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, employees of the General Assembly, including employees of the Legislative Research Commission, members of boards and commissions, those officers and employees of Kentucky Educational Television exempt from classified service as provided in KRS 18A.115, presidents and employees of the state universities and the state colleges, officers employed by the Department of Kentucky State Police under KRS Chapter 16, **employees whose compensation is set by the Public Service Commission under subsection (4) of Section 2 of this Act and subsection (1) of Section 6 of this Act**, and persons employed by the commissioner of parks on a temporary basis under KRS 148.026, the Personnel Cabinet shall prepare schedules of compensation, payable out of the State Treasury, with a minimum salary rate, and other salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employee, including specifically the offices and positions of employment in every constitutional administrative department, statutory administrative department, independent agency, board, commission, or other unit of state government. The language of any statute empowering a board, commission, authority, or other administrative body for which the Personnel Cabinet provides personnel and payroll services, except for any board governing any of the Kentucky Retirement Systems, the County Employees Retirement System, the Kentucky Public Pensions Authority, the Kentucky Higher Education Assistance Authority, the Kentucky Authority for Educational Television, or the Council on Postsecondary Education, to establish, set, or approve the salaries of its administrative head and other employees to the contrary notwithstanding, the establishment or setting of salaries for administrative heads or other employees shall be subject to the approval of the secretary of the Personnel Cabinet. The schedules and rates shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the Personnel Cabinet shall ascertain and record the duties, responsibilities, and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110, 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become effective until it has been approved by the Governor by executive order.
- (2) The Governor shall set the compensation payable out of the State Treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent agency, or other unit of state government, except for those excluded under subsection (1) of this section. Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the Governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed the total taxable compensation of the Governor derived from state sources, the provisions of KRS 64.660 to the contrary notwithstanding. For the purposes of this section, the total taxable compensation of the Governor from state sources shall include the amount provided for compensation to the Governor under KRS 64.480 and any benefits or discretionary spending accounts that are imputed as taxable income for federal tax purposes.
- (3) The compensation payable out of the State Treasury to officers and employees subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employees of the Public Service Commission **not otherwise exempt from the requirements of this section under subsection (4) of Section 2 of this Act and subsection (1) of Section 6 of this Act** ~~of Kentucky~~ whose compensation shall be fixed, within constitutional limits, by the Personnel Cabinet with the approval of the Governor as provided in subsection (1) of this section.
- (4) Nothing in this section shall preclude the allowance of maintenance to officers and employees of the state.

➔Section 9. KRS 160.617 is amended to read as follows:

Notwithstanding KRS 278.040~~(8)(2)~~, or any other provision to the contrary, any utility, cable service provider, or satellite broadcast and wireless cable service provider required to pay the tax authorized by KRS 160.613 or 160.614 may increase its rates in any school district in which it is required to pay the school tax by the amount of the school tax imposed, up to three percent (3%). Any utility, cable service provider, or satellite ~~[-]broadcast and wireless cable~~ service provider so increasing its rates shall separately state on the bills sent to its customers the amount of the increase and shall identify the amount as: "Rate increase for school tax."

➔Section 10. The following KRS section is repealed:

278.050 Membership of Public Service Commission -- Appointment -- Terms -- Chairman -- Vacancies.

➔Section 11. (1) Within thirty days of the effective date of this Act, the Governor shall appoint two members of the Public Service Commission for terms expiring July 1, 2028.

(2) All current members of the Public Service Commission on the effective date of this Act may serve out the remainder of their terms and any subsequent terms upon reappointment without being subject to the qualifications and appointment limitations in subsection (1) of Section 1 of this Act, but they shall be subject to subsections (2) to (7) of Section 1 of this Act.

(3) On the effective date of this Act, copies of any records, files, or documents, including legal documents or memoranda, associated with functions of the Public Service Commission that were previously performed by the Energy and Environment Cabinet but for which it is no longer deemed responsible, shall be transferred or transmitted to the Public Service Commission.

➔Section 12. Whereas it is critical that changes to the organization, membership, and authority of the Public Service Commission be enacted as soon as possible to apply to any membership vacancies or matters before the commission to which the changes may apply, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Became law without Governor's signature April 15, 2026.**