

1 AN ACT relating to city utility commission membership.

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

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

4 (1) Any city acquiring or constructing an electric light, heat, and power plant under the
5 provisions of KRS 96.520 shall, by ordinance, appoint a city utility commission
6 consisting of either three (3) commissioners or five (5) commissioners to operate,
7 manage, and control the plant~~[-, except that a city with a population equal to or~~
8 ~~greater than twenty thousand (20,000) based upon the most recent federal decennial~~
9 ~~census shall appoint five (5) commissioners].~~ The utility commission shall have
10 absolute control of the plant in every respect, including its operation and fiscal
11 management and the regulation of rates, except that in fixing rates the commission
12 shall be governed by the provisions of KRS 96.430, as it is made applicable to those
13 plants by KRS 96.520, and by any ordinance enacted under that section, except that
14 in fixing rates the commission in a city with a population equal to or greater than
15 eight thousand (8,000) based upon the most recent federal decennial census shall be
16 governed by the provisions of KRS 96.535 and any ordinance enacted according to
17 this section. The utility commission, when so appointed, shall be a public body
18 politic and corporate, with perpetual succession; and the body may contract and be
19 contracted with, sue and be sued, in and by its corporate name, and have and use a
20 corporate seal. The utility commission shall provide rules for the management of the
21 plant, and it shall fix the number, qualifications, pay, and terms of employment of
22 all employees needed to operate the plant. In cities with populations equal to or
23 greater than eight thousand (8,000) based upon the most recent federal decennial
24 census providing civil service coverage for city employees, the utility commission
25 appointed under this section may provide civil service coverage for all of its
26 employees, and it shall exercise the powers and functions with respect to their
27 employees which are vested in the city legislative body with respect to the city

1 employees by KRS 90.380. Employees who have been in the employment of the
2 utility commission for one (1) year immediately preceding the adoption of an order
3 by the utility commission placing all of its employees under civil service coverage
4 shall not be required to stand a civil service examination, and they shall be eligible
5 for all the benefits provided by civil service coverage. Out of the revenue of the
6 plant, it shall pay operating expenses, repairs, and necessary additions and provide
7 sufficient reserve fund against any emergency that may arise. The commission shall
8 from time to time pay to the city the surplus revenue derived from the operation of
9 the plant as is provided in KRS 96.430 and 96.440, as they are made applicable to
10 the plants by KRS 96.520, except that the commission in a city with a population
11 equal to or greater than eight thousand (8,000) based upon the most recent federal
12 decennial census shall pay to the city the surplus revenue derived from the operation
13 of the plant as is provided in KRS 96.535 and any ordinance adopted according to
14 this section. Notwithstanding the foregoing provisions, the utility commission, for
15 the purpose stated in KRS 96.520(1), may enter into an agreement for the operation
16 of any of its plants or other facilities.

17 (2) (a) Except as provided in KRS 61.070, no person shall be appointed a member of
18 the commission who has, within the last two (2) years before his appointment,
19 held any city, county, state, or federal office, or been a member of any
20 committee of any political party, or who is related within the third degree to
21 the mayor, or a member of a city legislative body.

22 (b) The commission shall not appoint to any subordinate office that it may create
23 any person who is related to any commissioner, to the mayor or to any
24 member of the city legislative body. No officer or employee of the city,
25 whether holding a paid or unpaid office, shall be eligible to be appointed as a
26 member of the commission or to be employed by the commission in any
27 capacity.

1 **(c)** The members of the commission shall be citizens, taxpayers, and legal voters
 2 of the city and shall not at the time of appointment be indebted to the city or
 3 be surety on the official bond of any officer of the city. However, **in cities**
 4 **with three (3) commission members**, one (1) commission member may be
 5 appointed **who does not live within the city boundaries, and, in cities with**
 6 **five (5) commission members, no more than two (2) commission members**
 7 **may be appointed who do not live within the city boundaries. In both**
 8 **instances, the appointment or appointments shall occur only if the**
 9 **appointing authority determines that each appointee:**

- 10 **1. Is a resident of a county in which the utility operates;**
 11 **2. Possesses qualifications and expertise that would benefit and be in the**
 12 **best interests of the city utility; and**
 13 **3. a. Is not employed by;**
 14 **b. Is not serving in any fiduciary or agency capacity with; or**
 15 **c. Does not possess an ownership interest in;**
 16 **a direct supplier or direct competitor of the city utility**~~[who lives in a~~
 17 ~~portion of the utility's service area that is not within the city if that~~
 18 ~~portion contains ten percent (10%) or more of the utility's customers and~~
 19 ~~that member has been a customer of the utility for not less than one (1)~~
 20 ~~year].~~

21 **(d)** If at any time during his **or her** term of office any member of the commission
 22 becomes a candidate for or is elected or appointed to any public office, he **or**
 23 **she** shall automatically vacate his **or her** membership on the commission, and
 24 another person shall be appointed in his **or her** place.

25 (3) The city shall pay the cost of securing bonds for the commissioners from a surety
 26 company, and each commissioner shall execute bond to be approved by the city
 27 legislative body.

- 1 (4) The city legislative body shall fix the salary to be paid each member of the
2 commission at a sum not to exceed two thousand four hundred dollars (\$2,400) per
3 annum. The Department for Local Government shall compute by the second Friday
4 in February of every year the annual increase or decrease in the Consumer Price
5 Index of the preceding year by using 1998 as the base year, and the salary of the
6 commissioners may be adjusted at a rate no greater than that stipulated by the
7 Department for Local Government.
- 8 (5) The first commissioners appointed under this section shall be appointed one (1) for
9 the term of one (1) year, one (1) for the term of two (2) years, and one (1) for the
10 term of three (3) years. Upon the expiration of the first terms, successors shall be
11 appointed for a term of three (3) years. On a commission with five (5) members, not
12 more than two (2) members shall hold concurrent terms of office.
- 13 (6) All commission members appointed subsequent to the initial members shall be
14 appointed by the mayor or chief executive of the municipality, with the approval of
15 the governing body of the municipality.