

By: Wilson

H.B. No. 2799

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the election of one commissioner of the Public Utility
3 Commission of Texas.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The heading to Subchapter B, Chapter 12,
6 Utilities Code, is amended to read as follows:

7 SUBCHAPTER B. COMMISSION APPOINTMENT, ELECTION, AND FUNCTIONS

8 SECTION 2. The heading to Section 12.051, Utilities Code,
9 is amended to read as follows:

10 Sec. 12.051. APPOINTMENT AND ELECTION; TERM.

11 SECTION 3. Section 12.051, Utilities Code, is amended by
12 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
13 read as follows:

14 (a) The commission is composed of three commissioners.

15 (a-1) Two commissioners must be appointed by the governor
16 with the advice and consent of the senate.

17 (a-2) One commissioner must be elected at the general
18 election for state officers.

19 SECTION 4. Section 12.053, Utilities Code, is amended to
20 read as follows:

21 Sec. 12.053. MEMBERSHIP QUALIFICATIONS. (a) To be
22 eligible for appointment to a commissioner's office, other than an
23 appointment to fill a vacancy in the elected commissioner's office,
24 a person [~~a commissioner~~] must:

- 1 (1) be a qualified voter;
- 2 (2) be a citizen of the United States;
- 3 (3) be a competent and experienced administrator;
- 4 (4) be well informed and qualified in the field of
- 5 public utilities and utility regulation; and
- 6 (5) have at least five years of experience in the
- 7 administration of business or government or as a practicing
- 8 attorney or certified public accountant.

9 (a-1) To be eligible for election to the elected

10 commissioner's office, a person must be:

- 11 (1) a qualified voter; and
- 12 (2) a citizen of the United States.

13 (b) A person is not eligible for appointment or election to

14 a commissioner's office [~~as a commissioner~~] if the person:

15 (1) at any time during the two years preceding the date

16 of the person's appointment or the date of the person's election:

17 (A) personally served as an officer, director,

18 owner, employee, partner, or legal representative of a public

19 utility regulated by the commission or of an affiliate or direct

20 competitor of a public utility regulated by the commission; or

21 (B) owned or controlled, directly or indirectly,

22 more than a 10 percent interest in a public utility regulated by the

23 commission or in an affiliate or direct competitor of a public

24 utility regulated by the commission; or

25 (2) is not qualified to serve under Section [12.151](#),

26 [12.152](#), or [12.153](#).

27 SECTION 5. Section [12.054](#)(a), Utilities Code, is amended to

1 read as follows:

2 (a) It is a ground for removal from the commission if a
3 commissioner:

4 (1) does not have at the time of election or
5 appointment or does not maintain during service on the commission
6 the qualifications required by Section 12.053;

7 (2) violates a prohibition provided by Section 12.053
8 or by Subchapter D;

9 (3) cannot discharge the commissioner's duties for a
10 substantial part of the term for which the commissioner is elected
11 or appointed because of illness or disability; or

12 (4) is absent from more than half of the regularly
13 scheduled commission meetings that the commissioner is eligible to
14 attend during a calendar year unless the absence is excused by
15 majority vote of the commission.

16 SECTION 6. Section 12.055, Utilities Code, is amended to
17 read as follows:

18 Sec. 12.055. PROHIBITION ON SEEKING ANOTHER OFFICE. A
19 person may not seek nomination or election to another civil office
20 of this state or of the United States while serving as a
21 commissioner. If a commissioner files for nomination or election
22 to another civil office of this state or of the United States, the
23 person's office as commissioner immediately becomes vacant, and the
24 governor shall order a special election or appoint a successor as
25 provided by Section 12.056.

26 SECTION 7. Section 12.056, Utilities Code, is amended to
27 read as follows:

1 Sec. 12.056. [~~EFFECT OF~~] VACANCY. (a) A vacancy or
2 disqualification does not prevent a [~~the~~] remaining commissioner
3 [~~or commissioners~~] from exercising the powers of the commission.

4 (b) If the elected commissioner's office becomes vacant and
5 more than one year remains in the term of the office vacated, the
6 governor shall order a special election in which a successor shall
7 be elected.

8 (c) If the elected commissioner's office becomes vacant and
9 less than one year remains in the term of the office vacated, the
10 governor shall appoint a successor to serve for the unexpired term.

11 SECTION 8. Section 12.059, Utilities Code, is amended to
12 read as follows:

13 Sec. 12.059. TRAINING PROGRAM FOR COMMISSIONERS. (a)
14 Before a commissioner may assume the commissioner's duties and
15 before an appointed [~~the~~] commissioner may be confirmed by the
16 senate, the commissioner must complete at least one course of the
17 training program established under this section.

18 (b) A training program established under this section shall
19 provide information to the commissioner regarding:

20 (1) the enabling legislation that created the
21 commission and its policymaking body to which the commissioner is
22 elected or appointed to serve;

23 (2) the programs operated by the commission;

24 (3) the role and functions of the commission;

25 (4) the rules of the commission with an emphasis on the
26 rules that relate to disciplinary and investigatory authority;

27 (5) the current budget for the commission;

1 (6) the results of the most recent formal audit of the
2 commission;

3 (7) the requirements of Chapters 551, 552, and 2001,
4 Government Code;

5 (8) the requirements of the conflict of interest laws
6 and other laws relating to public officials; and

7 (9) any applicable ethics policies adopted by the
8 commission or the Texas Ethics Commission.

9 (c) A person who is elected or appointed to the commission
10 is entitled to reimbursement, as provided by the General
11 Appropriations Act, for the travel expenses incurred in attending
12 the training program regardless of whether the attendance at the
13 program occurs before or after the person qualifies for office.

14 SECTION 9. Section 12.152, Utilities Code, is amended to
15 read as follows:

16 Sec. 12.152. CONFLICT OF INTEREST. (a) A person is not
17 eligible for election or appointment as a commissioner or executive
18 director of the commission if:

19 (1) the person serves on the board of directors of a
20 company that supplies fuel, utility-related services, or
21 utility-related products to regulated or unregulated electric or
22 telecommunications utilities; or

23 (2) the person or the person's spouse:

24 (A) is employed by or participates in the
25 management of a business entity or other organization that is
26 regulated by or receives funds from the commission;

27 (B) directly or indirectly owns or controls more

1 than a 10 percent interest in:

2 (i) a business entity or other organization
3 that is regulated by or receives funds from the commission; or

4 (ii) a utility competitor, utility
5 supplier, or other entity affected by a commission decision in a
6 manner other than by the setting of rates for that class of
7 customer;

8 (C) uses or receives a substantial amount of
9 tangible goods, services, or funds from the commission, other than
10 compensation or reimbursement authorized by law for commission
11 membership, attendance, or expenses; or

12 (D) notwithstanding Paragraph (B), has an
13 interest in a mutual fund or retirement fund in which more than 10
14 percent of the fund's holdings at the time of election or
15 appointment is in a single utility, utility competitor, or utility
16 supplier in this state and the person does not disclose this
17 information to the governor, senate, commission, or other entity,
18 as appropriate.

19 (b) A person otherwise ineligible because of Subsection
20 (a)(2)(B) may be elected or appointed to the commission and serve as
21 a commissioner or may be employed as executive director if the
22 person:

23 (1) notifies the attorney general and commission that
24 the person is ineligible because of Subsection (a)(2)(B); and

25 (2) divests the person or the person's spouse of the
26 ownership or control:

27 (A) before beginning service or employment; or

1 (B) if the person is already serving or employed,
2 within a reasonable time.

3 SECTION 10. Section 52.092(c), Election Code, is amended to
4 read as follows:

5 (c) Statewide offices of the state government shall be
6 listed in the following order:

- 7 (1) governor;
- 8 (2) lieutenant governor;
- 9 (3) attorney general;
- 10 (4) comptroller of public accounts;
- 11 (5) commissioner of the General Land Office;
- 12 (6) commissioner of agriculture;
- 13 (7) railroad commissioner;
- 14 (8) public utility commissioner;
- 15 (9) chief justice, supreme court;
- 16 (10) [~~(9)~~] justice, supreme court;
- 17 (11) [~~(10)~~] presiding judge, court of criminal
18 appeals;
- 19 (12) [~~(11)~~] judge, court of criminal appeals.

20 SECTION 11. Section 504.401(d), Transportation Code, is
21 amended to read as follows:

22 (d) In this section, "state official" means:

- 23 (1) a member of the legislature;
- 24 (2) the governor;
- 25 (3) the lieutenant governor;
- 26 (4) a justice of the supreme court;
- 27 (5) a judge of the court of criminal appeals;

- 1 (6) the attorney general;
- 2 (7) the commissioner of the General Land Office;
- 3 (8) the comptroller;
- 4 (9) a member of the Railroad Commission of Texas;
- 5 (10) the commissioner of agriculture;
- 6 (11) an elected commissioner of the Public Utility
7 Commission of Texas;
- 8 (12) the secretary of state; or
- 9 (13) [~~(12)~~] a member of the State Board of Education.

10 SECTION 12. (a) The first election for commissioner of the
11 Public Utility Commission of Texas, for a six-year term beginning
12 on January 1, 2023, shall be held on the date of the general
13 election for state and county officers for the year 2022.

14 (b) Notwithstanding Section 12.051(c), Utilities Code, the
15 commissioner whose term expires September 1, 2023, shall serve only
16 until the first commissioner elected in the manner provided by this
17 Act qualifies to serve. This Act does not prohibit the commissioner
18 whose term expires September 1, 2023, from running for election to
19 the Public Utility Commission of Texas.

20 (c) If on January 1, 2023, there is a vacancy in the office
21 of commissioner created under this Act because the first
22 commissioner-elect has died or refuses or is permanently unable to
23 serve, the commissioner serving on that date shall, unless
24 otherwise removed as provided by law, continue in office under the
25 former law that governed the office until the vacancy is filled in
26 the manner provided by Section 12.056(b), Utilities Code, as added
27 by this Act. The former law that governed the office of the

1 commissioner is continued in effect for that purpose.

2 SECTION 13. This Act takes effect September 1, 2021.