



FLOOR AMENDMENT NO. _____

BY: 

Amend H.B. 1600 (House committee printing) by adding the following appropriately numbered ARTICLE:

ARTICLE _____. ELECTION OF THE COMMISSIONER OF THE PUBLIC UTILITY
COMMISSION OF TEXAS

SECTION _____. Section 12.051, Utilities Code, is amended to read as follows:

Sec. 12.051. ELECTION [~~APPOINTMENT~~]; TERM. [~~(a)~~] The commission is composed of one commissioner elected by the qualified voters for statewide offices and propositions at the general election for state and county officers. The commissioner serves a two-year term [~~three commissioners appointed by the governor with the advice and consent of the senate~~].

~~[(b) An appointment to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.]~~

~~[(c) Commissioners serve staggered, six-year terms.]~~

SECTION _____. Section 12.052, Utilities Code, is amended to read as follows:

Sec. 12.052. DEPUTY COMMISSIONER [~~PRESIDING OFFICER~~]. (a) The commissioner shall appoint a deputy commissioner. In order to serve as deputy commissioner, a person must be eligible under Section 12.053. The deputy commissioner shall take the oath of office required of the commissioner [~~governor shall designate a commissioner as the presiding officer~~].

(b) The deputy commissioner [~~presiding officer~~] serves in that capacity at the will [~~pleasure~~] of the commissioner [~~governor~~].

(c) The deputy commissioner shall perform duties as assigned by the commissioner. In addition, the deputy commissioner

1 shall perform the duties assigned by law to the commissioner during
2 a necessary and unavoidable absence of the commissioner or during
3 the commissioner's inability to act.

4 (d) When the deputy commissioner is required by law to
5 perform the duties assigned by law to the commissioner, the deputy
6 commissioner has all rights, privileges, and responsibilities of
7 the commissioner.

8 (e) The state shall pay the expenses incurred by the deputy
9 commissioner while traveling on the business of the office under
10 the direction of the commissioner.

11 SECTION _____. Section 12.053, Utilities Code, is amended to
12 read as follows:

13 Sec. 12.053. [~~MEMBERSHIP~~] QUALIFICATIONS OF OFFICE. (a)
14 To be eligible for election to the office of commissioner or
15 appointment to the office of deputy~~[, a]~~ commissioner, a person
16 must be:

17 (1) a qualified voter; and

18 (2) a citizen of the United States~~[, and~~

19 ~~[(3) a representative of the general public].~~

20 (b) A person is not eligible for election to the office of
21 commissioner or appointment to the office of deputy ~~[as a]~~
22 commissioner if the person:

23 (1) at any time during the two years preceding the date
24 of the person's election or the date of the person's appointment:

25 (A) personally served as an officer, director,
26 owner, employee, partner, or legal representative of a public
27 utility, affiliate, or direct competitor of a public utility; or

28 (B) owned or controlled, directly or indirectly,
29 stocks or bonds of any class with a value of \$10,000 or more in a
30 public utility, affiliate, or direct competitor of a public
31 utility; or

(2) is not qualified to serve under Section 12.151, 12.152, or 12.153.

SECTION _____. Section 12.054, Utilities Code, is amended to read as follows:

Sec. 12.054. REMOVAL OF COMMISSIONER OR DEPUTY COMMISSIONER. (a) It is a ground for removal from the office of commissioner or deputy commissioner ~~[the commission]~~ if a person ~~[commissioner]~~:

(1) does not have at the time of election or appointment or does not maintain during service in the office ~~[on the commission]~~ the qualifications required by Section 12.053;

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

(3) cannot discharge the ~~[commissioner's]~~ duties of office for a substantial part of the term for which the person ~~[commissioner]~~ is elected or appointed because of illness or disability~~[, or~~

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

(b) The validity of an action of the commissioner or deputy commissioner ~~[commission]~~ is not affected by the fact that the action is taken when a ground for removal of the commissioner or deputy ~~[a]~~ commissioner exists.

(c) If the executive director has knowledge that a potential ground for removal of the deputy commissioner exists, the executive director shall notify the commissioner ~~[presiding officer of the commission]~~ of the potential ground. ~~[The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists.]~~ If the executive director has

1 knowledge that a potential ground for removal of the commissioner
2 exists [~~involves the presiding officer~~], the executive director
3 shall notify the deputy commissioner [~~next highest officer of the~~
4 ~~commission~~], who shall notify the governor and the attorney general
5 that a potential ground for removal exists.

6 SECTION _____. Section 12.055, Utilities Code, is amended to
7 read as follows:

8 Sec. 12.055. PROHIBITION ON SEEKING ANOTHER OFFICE. A
9 person may not seek nomination or election to another civil office
10 of this state or of the United States while serving as [a]
11 commissioner. If the [a] commissioner files for nomination or
12 election to another civil office of this state or of the United
13 States, the [~~person's~~] office of [~~as~~] commissioner immediately
14 becomes vacant[, ~~and the governor shall appoint a successor~~].

15 SECTION _____. Section 12.056, Utilities Code, is amended to
16 read as follows:

17 Sec. 12.056. EFFECT OF VACANCY. If the office of
18 commissioner becomes vacant, the deputy commissioner shall:

19 (1) perform the duties assigned by law to the
20 commissioner for the remainder of the commissioner's term; and

21 (2) appoint a person who is eligible under Section
22 12.053 to the office of deputy commissioner. [A vacancy or
23 ~~disqualification does not prevent the remaining commissioner or~~
24 ~~commissioners from exercising the powers of the commission.]~~

25 SECTION _____. Section 12.057, Utilities Code, is amended to
26 read as follows:

27 Sec. 12.057. COMPENSATION. The annual salary of the
28 commissioner and the deputy commissioner [~~the commissioners~~] is
29 determined by the legislature.

30 SECTION _____. Section 12.059, Utilities Code, is amended to
31 read as follows:

1 Sec. 12.059. TRAINING PROGRAM [~~FOR COMMISSIONERS~~]. (a)
2 Before the [a] commissioner or deputy commissioner may assume the
3 ~~[commissioner's]~~ duties of office ~~[and before the commissioner may~~
4 ~~be confirmed by the senate]~~, the commissioner or deputy
5 commissioner must complete at least one course of the training
6 program established under this section.

7 (b) A training program established under this section must
8 ~~[shall]~~ provide information to the commissioner or deputy
9 commissioner regarding:

10 (1) the enabling legislation that created the
11 commission and the offices of commissioner and deputy commissioner
12 ~~[its policymaking body to which the commissioner is appointed to~~
13 ~~serve]~~;

14 (2) the programs operated by the commission;

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

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

18 (5) the current budget for the commission;

19 (6) the results of the most recent formal audit of the
20 commission;

21 (7) the requirements of Chapters 551, 552, and 2001,
22 Government Code;

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

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

27 (c) A person who is elected to the office of commissioner or
28 appointed to the office of deputy commissioner ~~[commissioner]~~ is
29 entitled to reimbursement, as provided by the General
30 Appropriations Act, for the travel expenses incurred in attending
31 the training program regardless of whether the attendance at the

1 program occurs before or after the person qualifies for the office.

2 SECTION _____. Section 12.101, Utilities Code, is amended to
3 read as follows:

4 Sec. 12.101. COMMISSION EMPLOYEES. The commission shall
5 employ:

6 (1) an executive director; and

7 (2) officers and other employees the commissioner
8 [~~commission~~] considers necessary to administer this title.

9 SECTION _____. Section 12.102, Utilities Code, is amended to
10 read as follows:

11 Sec. 12.102. DUTIES OF EMPLOYEES. The commissioner
12 [~~commission~~] shall develop and implement policies that clearly
13 separate the policymaking responsibilities of the commissioner
14 [~~commission~~] and the management responsibilities of the commission
15 employees.

16 SECTION _____. Section 12.151, Utilities Code, is amended to
17 read as follows:

18 Sec. 12.151. REGISTERED LOBBYIST. A person required to
19 register as a lobbyist under Chapter 305, Government Code, because
20 of the person's activities for compensation on behalf of a
21 profession related to the operation of the commission may not serve
22 as the commissioner or deputy [~~a~~] commissioner.

23 SECTION _____. Section 12.152, Utilities Code, is amended to
24 read as follows:

25 Sec. 12.152. CONFLICT OF INTEREST. (a) A person is not
26 eligible for election to the office of commissioner, for
27 appointment to the office of deputy [~~as a~~] commissioner, or for
28 employment in the position of executive director of the commission
29 if:

30 (1) the person serves on the board of directors of a
31 company that supplies fuel, utility-related services, or

1 utility-related products to regulated or unregulated electric or
2 telecommunications utilities; or

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

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

7 (B) directly or indirectly owns or controls more
8 than a 10 percent interest or a pecuniary interest with a value
9 exceeding \$10,000 in:

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

12 (ii) a utility competitor, utility
13 supplier, or other entity affected by a commission decision in a
14 manner other than by the setting of rates for that class of
15 customer;

16 (C) uses or receives a substantial amount of
17 tangible goods, services, or funds from the commission, other than
18 compensation or reimbursement authorized by law for commission
19 membership, attendance, or expenses; or

20 (D) notwithstanding Paragraph (B), has an
21 interest in a mutual fund or retirement fund in which more than 10
22 percent of the fund's holdings at the time of the person's election,
23 appointment, or employment is in a single utility, utility
24 competitor, or utility supplier in this state and the person does
25 not disclose this information to the governor, senate, commission,
26 or other entity, as appropriate.

27 (b) A person otherwise ineligible because of Subsection
28 (a)(2)(B) may be elected to the office of commissioner, appointed
29 to the office of deputy [commission and serve as a] commissioner, or
30 [may be] employed as executive director, and may serve in that
31 office or position, if the person:

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

3 (2) divests the person or the person's spouse of the
4 ownership or control:

5 (A) before beginning service or employment; or

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

8 SECTION _____. Section 12.154(f), Utilities Code, is amended
9 to read as follows:

10 (f) It is not a violation of this section if the [a]
11 commissioner or deputy commissioner [~~commission employee~~], on
12 becoming the owner of stocks, bonds, or another pecuniary interest
13 in a public utility, affiliate, or direct competitor of a public
14 utility otherwise than voluntarily, informs the [~~commission and~~
15 ~~the~~] attorney general of the ownership and divests the ownership or
16 interest within a reasonable time. It is not a violation of this
17 section if a commission employee, on becoming the owner of stocks,
18 bonds, or another pecuniary interest in a public utility,
19 affiliate, or direct competitor of a public utility otherwise than
20 voluntarily, informs the commission and the attorney general of the
21 ownership and divests the ownership or interest within a reasonable
22 time.

23 SECTION _____. Section 12.155(b), Utilities Code, is amended
24 to read as follows:

25 (b) The prohibition of Subsection (a)(1) applies until the:

26 (1) second anniversary of the date the commissioner
27 ceases to serve as [a] commissioner; and

28 (2) first anniversary of the date the employee's
29 employment with the commission or State Office of Administrative
30 Hearings ceases.

31 SECTION _____. Section 12.156, Utilities Code, is amended to

1 read as follows:

2 Sec. 12.156. QUALIFICATIONS AND STANDARDS OF CONDUCT
3 INFORMATION. The executive director or the executive director's
4 designee shall provide to the commissioner [~~commissioners~~] and
5 commission employees as often as necessary information regarding
6 their:

7 (1) qualifications for office or employment under this
8 title; and

9 (2) responsibilities under applicable laws relating
10 to standards of conduct for state officers and employees.

11 SECTION _____. Section 14.053, Utilities Code, is amended to
12 read as follows:

13 Sec. 14.053. POWERS AND DUTIES OF STATE OFFICE OF
14 ADMINISTRATIVE HEARINGS. (a) The utility division of the State
15 Office of Administrative Hearings shall conduct each hearing in a
16 contested case that is not conducted by the commissioner [~~one or
17 more commissioners~~].

18 (b) The commissioner [~~commission~~] may delegate to the
19 utility division of the State Office of Administrative Hearings the
20 authority to make a final decision and to issue findings of fact,
21 conclusions of law, and other necessary orders in a proceeding in
22 which there is not a contested issue of fact or law.

23 (c) The commissioner [~~commission~~] by rule shall define the
24 procedures by which the commissioner [~~it~~] delegates final
25 decision-making authority under Subsection (b).

26 (d) For review purposes an administrative law judge's final
27 decision under Subsection (b) has the same effect as a final
28 decision of the commissioner [~~commission~~] unless the [~~a~~]
29 commissioner requests formal review of the decision.

30 SECTION _____. Section 52.092(c), Election Code, is amended
31 to read as follows:

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

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

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

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

- (1) a member of the legislature;
- (2) the governor;
- (3) the lieutenant governor;
- (4) a justice of the supreme court;
- (5) a judge of the court of criminal appeals;
- (6) the attorney general;
- (7) the commissioner of the General Land Office;
- (8) the comptroller;
- (9) a member of the Railroad Commission of Texas;
- (10) the commissioner of agriculture;
- (11) the commissioner of the Public Utility Commission of Texas;
- (12) the secretary of state; or

1 (13) [~~12~~] a member of the State Board of Education.

2 SECTION _____. (a) The election for commissioner of the

3 Public Utility Commission of Texas, for a two-year term beginning

4 on January 1, 2015, shall be held on the date of the general

5 election for state and county officers for the year 2014.

6 (b) The change in law made by this article applies only to a

7 commissioner of the Public Utility Commission of Texas who is

8 elected after the effective date of this Act. A commissioner

9 serving on the effective date of this Act is subject to the law in

10 effect immediately before the effective date of this Act, and that

11 law is continued in effect for that purpose. A commissioner serving

12 on the effective date of this Act shall continue to serve until a

13 commissioner is elected as provided by Subsection (a) of this

14 section.

