

By: Larson

H.B. No. 2848

A BILL TO BE ENTITLED

AN ACT

relating to the election of commissioners of the Public Utility Commission of Texas.

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

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

SUBCHAPTER B. COMMISSION ELECTION [~~APPOINTMENT~~] AND FUNCTIONS

SECTION 2. Section 12.051, Utilities Code, is amended to read as follows:

Sec. 12.051. ELECTION [~~APPOINTMENT~~]; TERM. (a) The commission is composed of three commissioners elected to numbered positions at the general election for state officers [~~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 3. Section 12.052, Utilities Code, is amended to read as follows:

Sec. 12.052. PRESIDING OFFICER. The commissioners shall elect one commissioner [~~(a) The governor shall designate a commissioner~~] as the presiding officer.

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

1 SECTION 4. Section 12.053, Utilities Code, is amended to  
2 read as follows:

3 Sec. 12.053. MEMBERSHIP QUALIFICATIONS. (a) To be  
4 eligible for election or appointment, a person [~~commissioner~~] must:

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

13 (b) A person is not eligible for election or appointment 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 election or the date of the person's appointment:

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 office of a commissioner becomes vacant and more  
5 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 office of a commissioner becomes vacant and less  
9 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 the commissioner may be confirmed by the senate~~], the  
16 commissioner must complete at least one course of the training  
17 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) a commissioner of the Public Utility Commission
- 7 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,  
11 position number one, of the Public Utility Commission of Texas, for  
12 a six-year term beginning on January 1, 2023, shall be held on the  
13 date of the general election for state and county officers for the  
14 year 2022. The first election for commissioner, position number  
15 two, for a six-year term beginning on January 1, 2025, shall be held  
16 on the date of the general election for state and county officers  
17 for the year 2024. The first election for commissioner, position  
18 number three, for a six-year term beginning on January 1, 2027,  
19 shall be held on the date of the general election for state and  
20 county officers for the year 2026.

21 (b) The governor shall appoint a temporary commissioner to  
22 serve the period following the expiration of the term expiring  
23 September 1, 2021, under the former law until the first  
24 commissioner elected to position number one under this Act takes  
25 office. The governor shall appoint a temporary commissioner to  
26 serve the period following the expiration of the term expiring  
27 September 1, 2023, under the former law until the first



1 commissioner elected to position number two under this Act takes  
2 office. The governor shall appoint a temporary commissioner to  
3 serve the period following the expiration of the term expiring  
4 September 1, 2025, under the former law until the first  
5 commissioner elected to position number three under this Act takes  
6 office.

7 (c) If on January 1, 2023, there is a vacancy in the office  
8 of commissioner created under this Act because the first  
9 commissioner-elect has died or refuses or is permanently unable to  
10 serve, the commissioner serving on that date shall, unless  
11 otherwise removed as provided by law, continue in office under the  
12 former law that governed the office until the governor fills the  
13 vacancy by appointment in the manner provided by law. The former  
14 law that governed the office of the commissioner is continued in  
15 effect for that purpose.

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