

By: Thierry

H.B. No. 3487

A BILL TO BE ENTITLED

AN ACT

relating to the composition 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 APPOINTMENT, ELECTION, AND FUNCTIONS

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

Sec. 12.051. APPOINTMENT AND ELECTION; TERM.

SECTION 3. Section 12.051, Utilities Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a) The commission is composed of seven ~~[three]~~ commissioners.

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

(a-2) One commissioner must be appointed by the lieutenant governor with the advice and consent of the senate.

(a-3) One commissioner must be appointed by the speaker of the house of representatives with the advice and consent of the senate.

(a-4) One residential water commissioner and one residential energy commissioner must be elected by the qualified

1 voters at the general election for state and county officers.

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

4 Sec. 12.053. MEMBERSHIP QUALIFICATIONS. (a) To be
5 eligible for appointment to a commissioner's office, other than an
6 appointment to fill a vacancy in an elected commissioner's office,
7 a person [~~a commissioner~~] must:

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

16 (a-1) To be eligible for election to an elected
17 commissioner's office, a person must be:

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

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

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

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

1 (B) owned or controlled, directly or indirectly,
2 more than a 10 percent interest in a public utility regulated by the
3 commission or in an affiliate or direct competitor of a public
4 utility regulated by the commission; or

5 (2) is not qualified to serve under Section 12.151,
6 12.152, or 12.153.

7 SECTION 5. Section 12.054(a), Utilities Code, is amended to
8 read as follows:

9 (a) It is a ground for removal from the commission if a
10 commissioner:

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

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

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

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

23 SECTION 6. Section 12.055, Utilities Code, is amended to
24 read as follows:

25 Sec. 12.055. PROHIBITION ON SEEKING ANOTHER OFFICE. A
26 person may not seek nomination or election to another civil office
27 of this state or of the United States while serving as a

1 commissioner. If a commissioner files for nomination or election
2 to another civil office of this state or of the United States, the
3 person's office as commissioner immediately becomes vacant, and the
4 governor shall order a special election or appoint a successor as
5 provided by Section 12.056.

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

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

11 (b) If an elected commissioner's office becomes vacant and
12 more than one year remains in the term of the office vacated, the
13 governor shall order a special election in which a successor shall
14 be elected.

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

18 SECTION 8. Section 12.059, Utilities Code, is amended to
19 read as follows:

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

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

27 (1) the enabling legislation that created the

1 commission and its policymaking body to which the commissioner is
2 elected or appointed to serve;

3 (2) the programs operated by the commission;

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

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

7 (5) the current budget for the commission;

8 (6) the results of the most recent formal audit of the
9 commission;

10 (7) the requirements of Chapters 551, 552, and 2001,
11 Government Code;

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

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

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

21 SECTION 9. Section 12.152, Utilities Code, is amended to
22 read as follows:

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

26 (1) the person serves on the board of directors of a
27 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 in:

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

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

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

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

26 (b) A person otherwise ineligible because of Subsection
27 (a)(2)(B) may be elected or appointed to the commission and serve as

1 a commissioner or may be employed as executive director if the
2 person:

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

5 (2) divests the person or the person's spouse of the
6 ownership or control:

7 (A) before beginning service or employment; or

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

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

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

14 (1) governor;

15 (2) lieutenant governor;

16 (3) attorney general;

17 (4) comptroller of public accounts;

18 (5) commissioner of the General Land Office;

19 (6) commissioner of agriculture;

20 (7) railroad commissioner;

21 (8) residential water commissioner;

22 (9) residential energy commissioner;

23 (10) chief justice, supreme court;

24 (11) [~~9~~] justice, supreme court;

25 (12) [~~10~~] presiding judge, court of criminal
26 appeals;

27 (13) [~~11~~] judge, court of criminal appeals.

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

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

- 4 (1) a member of the legislature;
- 5 (2) the governor;
- 6 (3) the lieutenant governor;
- 7 (4) a justice of the supreme court;
- 8 (5) a judge of the court of criminal appeals;
- 9 (6) the attorney general;
- 10 (7) the commissioner of the General Land Office;
- 11 (8) the comptroller;
- 12 (9) a member of the Railroad Commission of Texas;
- 13 (10) the commissioner of agriculture;
- 14 (11) an elected commissioner of the Public Utility
15 Commission of Texas;
- 16 (12) the secretary of state; or
- 17 (13) [~~12~~] a member of the State Board of Education.

18 SECTION 12. (a) The lieutenant governor and the speaker of
19 the house of representatives each shall promptly appoint a
20 commissioner to the Public Utility Commission of Texas in
21 accordance with Section 12.051, Utilities Code, as amended by this
22 Act. Notwithstanding Section 12.051(c), Utilities Code, the term
23 of the commissioner appointed by the lieutenant governor expires
24 September 1, 2025, and the term of the commissioner appointed by the
25 speaker of the house of representatives expires September 1, 2027.

26 (b) The first election for residential water commissioner
27 and residential energy commissioner of the Public Utility

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1 Commission of Texas, for six-year terms beginning on January 1,
2 2023, shall be held on November 8, 2022.

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