

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 410

Introduced by Smith, 14.

Read first time January 13, 2017

Committee:

1 A BILL FOR AN ACT relating to the Public Service Commission; to amend
2 sections 32-509, 66-1830, 75-101, 75-104, 75-104.01, 75-105, and
3 75-106, Reissue Revised Statutes of Nebraska, and sections 75-101.01
4 and 75-128, Revised Statutes Cumulative Supplement, 2016; to change
5 the boundaries and number of public service commissioner districts
6 by the adoption of maps by reference; to provide for the appointment
7 and election of new commissioners as prescribed; to change a
8 provision relating to qualifications; to eliminate an obsolete
9 provision; to change commissioner compensation as prescribed; to
10 provide a duty for commissioners; to change provisions relating to
11 appointment and employment of employees; to provide duties for the
12 executive director; to provide for decisions by a majority vote of
13 all members; to harmonize provisions; to provide an operative date;
14 and to repeal the original sections.
15 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-509, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 32-509 (1) The State of Nebraska is divided into seven ~~five~~ public
4 service commissioner districts as provided and described in sections
5 75-101.01 and 75-101.02. A candidate for the office of public service
6 commissioner shall meet the qualifications found in section 75-101.
7 Except as provided in subsection (4) of this section, the ~~The~~
8 commissioners shall be elected on the partisan ballot.

9 (2) Except as provided in subsection (4) of this section, each ~~Each~~
10 public service commissioner shall be elected for a term of six years. One
11 public service commissioner from public service commissioner district
12 number one and one public service commissioner from public service
13 commissioner district number three shall be elected at the statewide
14 general election in 1994 and each six years thereafter. One public
15 service commissioner from public service commissioner district number
16 four and one public service commissioner from public service commissioner
17 district number five shall be elected at the statewide general election
18 in 1992 and each six years thereafter. One public service commissioner
19 from public service commissioner district number two shall be elected at
20 the statewide general election in 1996 and each six years thereafter.
21 Except as provided in subsection (4) of this section, one public service
22 commissioner from public service commissioner district number six and one
23 public service commissioner from public service commissioner district
24 number seven shall be elected at the statewide general election in 2020
25 and each six years thereafter.

26 (3) A public service commissioner from public service commissioner
27 district numbers one, two, three, four, and five shall continue to
28 represent his or her newly redistricted district for the balance of his
29 or her term.

30 (4) A public service commissioner from public service commissioner
31 district number six and a public service commissioner from public service

1 commissioner district number seven shall be appointed by the Governor to
2 represent such newly established districts until their successors are
3 elected at the statewide general election in 2020 and sworn in as
4 commissioners. Such appointed commissioners are not precluded from
5 seeking election as a public service commissioner.

6 Sec. 2. Section 66-1830, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 66-1830 (1) The office of public advocate is created as a separate
9 and independent division within the commission. The public advocate shall
10 represent the interests of Nebraska citizens and all classes of
11 jurisdictional utility ratepayers, other than high-volume ratepayers, in
12 matters involving jurisdictional utilities and shall act as trial staff
13 before the commission. In the exercise of his or her powers, the public
14 advocate shall consider all relevant factors, including, but not limited
15 to, the provision of safe, efficient, and reliable utility services at
16 just and reasonable rates.

17 (2) ~~The Notwithstanding the provisions of section 75-105, the~~
18 executive director of the commission, upon consultation with the members
19 of the commission, shall appoint the public advocate. The public advocate
20 shall serve a four-year term and shall be removed only for good cause.
21 The executive director shall be responsible for reviewing the performance
22 of the public advocate, for removing the public advocate in accordance
23 with law, and for filling any vacancy in that position in the same manner
24 as the original appointment.

25 (3) The public advocate shall be an attorney and shall have
26 experience in consumer-related utility issues or in the operation,
27 management, or regulation of utilities. No person owning stocks or bonds
28 in a corporation subject in whole or in part to regulation by the
29 commission or who has any pecuniary interest in such corporation shall be
30 appointed as public advocate.

31 Sec. 3. Section 75-101, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 75-101 (1) The members of the Public Service Commission shall be
3 resident citizens of this state, registered voters, and, if members of or
4 practitioners in any profession, in good standing according to the
5 established standards of such profession. The members of the Public
6 Service Commission shall be elected or appointed as provided in section
7 32-509. A candidate for the office of public service commissioner shall
8 be a resident of the district from which he or she seeks election or
9 appointment. Each public service commissioner shall be a resident of the
10 district for which he or she serves ~~from which he or she is elected~~.
11 Removal from the district shall cause a vacancy in the office of public
12 service commissioner for the unexpired term.

13 (2) No person shall be eligible to the office of public service
14 commissioner who is directly or indirectly interested in any common
15 carrier or jurisdictional utility in the state or out of it or who is in
16 any way or manner pecuniarily interested in any common carrier subject to
17 Chapter 75 or 86. If any commissioner becomes so interested after
18 election or appointment, his or her office shall become vacant, except
19 that if any commissioner becomes so interested otherwise than
20 voluntarily, he or she shall, within a reasonable time, divest himself or
21 herself of such interest, and failing to do so, his or her office shall
22 become vacant.

23 (3) A commissioner shall not hold any other office under the
24 government of the United States, of this state, or of any other state ~~and~~
25 ~~shall not, while such commissioner, engage in any other occupation.~~

26 For purposes of Chapter 75:

27 (a) Commission, when referring to a state agency, means the Public
28 Service Commission; and

29 (b) Commissioner means a member of the commission.

30 Sec. 4. Section 75-101.01, Revised Statutes Cumulative Supplement,
31 2016, is amended to read:

1 75-101.01 (1) Based on the 2010 Census of Population by the United
2 States Department of Commerce, Bureau of the Census, the State of
3 Nebraska shall be ~~is hereby~~ divided into seven ~~five~~ public service
4 commissioner districts, and each public service commissioner district
5 shall be entitled to one member.

6 (2) The numbers and boundaries of the districts are designated and
7 established by maps identified and labeled as maps PSC17-1, PSC17-2,
8 PSC17-3, PSC17-4, PSC17-5, PSC17-6, and PSC17-7 ~~PSC11-1, PSC11-2,~~
9 ~~PSC11-3, PSC11-4, and PSC11-5,~~ filed with the Clerk of the Legislature,
10 and incorporated by reference as part of this legislative bill ~~Laws 2011,~~
11 ~~LB700.~~

12 (3)(a) The Clerk of the Legislature shall transfer possession of the
13 maps referred to in subsection (2) of this section to the Secretary of
14 State on the operative date of this act ~~May 27, 2011.~~

15 (b) When questions of interpretation of district boundaries arise,
16 the maps referred to in subsection (2) of this section in possession of
17 the Secretary of State shall serve as the indication of the legislative
18 intent in drawing the district boundaries.

19 (c) Each election commissioner or county clerk shall obtain copies
20 of the maps referred to in subsection (2) of this section for the
21 election commissioner's or clerk's county from the Secretary of State.

22 (d) The Secretary of State shall also have available for viewing on
23 his or her web site the maps referred to in subsection (2) of this
24 section identifying the boundaries for the districts.

25 Sec. 5. Section 75-104, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 75-104 (1) ~~Until January 4, 2007, the annual salary of each~~
28 ~~commissioner shall be fifty thousand dollars. Commencing January 4, 2007,~~
29 and until January 3, 2019, the annual salary of each commissioner shall
30 be seventy-five thousand dollars. Beginning January 3, 2019, each
31 commissioner shall be allowed a per diem of one hundred fifty dollars per

1 day for days actually away from home on business of the commission, not
2 to exceed twenty-two thousand five hundred dollars in any one year. No
3 additional compensation or benefits shall be allowed except as provided
4 in this section.

5 (2) Each commissioner shall be entitled to receive from the state
6 his or her mileage expenses incurred while traveling in the line of duty
7 to and from his or her residence to the office of the Public Service
8 Commission in Lincoln pursuant to the following conditions:

9 (a) The Public Service Commission has adopted and promulgated rules
10 and regulations establishing guidelines for allowable reimbursement of
11 such mileage expenses, except that such mileage rate shall not exceed the
12 mileage rate established by the Department of Administrative Services
13 pursuant to section 81-1176;

14 (b) The request for such reimbursement falls within such guidelines;
15 and

16 (c) The total amounts authorized for such reimbursement of mileage
17 expenses in any fiscal year does not cause the total expenses to exceed
18 the total funds appropriated to the program established for
19 commissioners' expenses. In addition thereto, the commissioners,
20 executive director, clerks, and other employees of the commission shall
21 be entitled to receive from the state their actual necessary traveling
22 expenses, including the cost of transportation while traveling on the
23 business of the commission, to be paid in the same manner as other
24 requests for payment or reimbursement from the state. In computing the
25 cost of transportation for the commissioners, executive director, clerks,
26 and other employees, no mileage or other traveling expense shall be
27 requested or allowed unless sections 81-1174 to 81-1177 are strictly
28 complied with.

29 Sec. 6. Section 75-104.01, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 75-104.01 Section 75-104 shall be so interpreted as to effectuate

1 its general purpose, and to provide, in the public interest, adequate
2 compensation as therein provided for public service commissioners, ~~and to~~
3 ~~permit a change in such salaries as soon as the same may become operative~~
4 ~~under the Constitution of the State of Nebraska.~~

5 Sec. 7. Section 75-105, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 75-105 The commissioners shall be known collectively as the Public
8 Service Commission and shall have a seal, which may be either an engraved
9 or ink stamp seal, similar to the seal of this state, with the words
10 Public Service Commission of Nebraska included thereon. They shall be
11 furnished with offices and with necessary furniture, stationery, and
12 supplies. Immediately after a newly elected or appointed member of the
13 commission has taken the oath of office prescribed in section 75-102, the
14 commission shall meet at Lincoln and organize. The commission shall elect
15 one of its members as chairperson of the commission who shall serve a
16 term of two years. The commission shall ~~also~~ appoint an executive
17 director and employ other employees as may be necessary to perform the
18 duties which may be required of the commission.

19 Sec. 8. Section 75-106, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 75-106 Any person who is eligible to hold the office of commissioner
22 shall also be eligible to hold the office of executive director. The
23 salary of the executive director shall be fixed by the commission,
24 payable monthly. The executive director shall take the same oath as the
25 commissioners. The executive director shall keep full and correct minutes
26 of all transactions and proceedings of the commission, and it shall be
27 his or her duty to, upon request and being paid the lawful fees therefor,
28 furnish a transcript, duly authenticated by the commission, of any public
29 record of the commission and to perform such duties as may be required by
30 the commission. The executive director shall charge such fees for
31 furnishing a transcript as are allowed by law on appeal from the district

1 court to the Court of Appeals and shall turn such fees into the fund
2 provided for the expenses of the commission. The executive director shall
3 be responsible for and supervise the activities and functions of the
4 commission, including all matters relating to budgeting and employment
5 and management of commission employees.

6 Sec. 9. Section 75-128, Revised Statutes Cumulative Supplement,
7 2016, is amended to read:

8 75-128 (1) It is hereby declared to be the policy of the Legislature
9 that all matters presented to the commission be heard and determined
10 without delay. All matters requiring a hearing shall be set for hearing
11 at the earliest practicable date and in no event, except for good cause
12 shown, which showing shall be recited in the order, shall the time fixed
13 for hearing be more than six months after the date of filing of the
14 application, complaint, or petition on which such hearing is to be had.
15 Except in case of an emergency and upon a motion to proceed with less
16 than a quorum made by all parties and supported by a showing of clear and
17 convincing evidence of such emergency and benefit to all parties, a
18 quorum of the commission shall hear all matters set for hearing, and a
19 decision of the commission shall be decided by a majority of all members.

20 Except as otherwise provided in the Major Oil Pipeline Siting Act or
21 section 75-121 and except for good cause shown, a decision of the
22 commission shall be made and filed within thirty days after completion of
23 the hearing or after submission of affidavits in nonhearing proceedings.

24 (2) In the case of any proceeding upon which a hearing is held, the
25 transcript of testimony shall be prepared and submitted to the commission
26 prior to entry of an order, except that it shall not be necessary to have
27 prepared prior to a commission decision the transcripts of testimony on
28 hearings involving noncontested proceedings and hearings involving
29 emergency rate applications under section 75-121.

30 (3) For each application, complaint, or petition filed with the
31 commission, except those filed under sections 75-303.01 and 75-303.02,

1 the Major Oil Pipeline Siting Act, or the State Natural Gas Regulation
2 Act, the commission shall charge a filing fee to be determined by the
3 commission, but in an amount not to exceed the sum of five hundred
4 dollars, payable at the time of such filing. The commission shall also
5 charge to persons regulated by the commission, except persons regulated
6 under the Major Oil Pipeline Siting Act or the State Natural Gas
7 Regulation Act, a hearing fee to be determined by the commission, but in
8 an amount not to exceed the sum of two hundred fifty dollars, for each
9 half day of hearings if the person regulated by the commission files an
10 application, complaint, or petition which necessitates a hearing.

11 (4) For each new tariff filed with the commission, except those
12 filed under sections 75-301 to 75-322, the commission shall charge a fee
13 not to exceed fifty dollars. This subsection does not apply to amendments
14 to existing tariffs.

15 (5) The commission shall remit the fees received to the State
16 Treasurer for credit to the General Fund.

17 Sec. 10. This act becomes operative on January 3, 2019.

18 Sec. 11. Original sections 32-509, 66-1830, 75-101, 75-104,
19 75-104.01, 75-105, and 75-106, Reissue Revised Statutes of Nebraska, and
20 sections 75-101.01 and 75-128, Revised Statutes Cumulative Supplement,
21 2016, are repealed.