
By: **Senators Hollinger, Britt, Brochin, Conway, Currie, DeGrange, Della, Dyson, Exum, Forehand, Frosh, Garagiola, Giannetti, Gladden, Green, Grosfeld, Hogan, Hughes, Jimeno, Jones, Kasemeyer, Kelley, Kramer, Lawlah, McFadden, Miller, Pinsky, Ruben, Stone, and Teitelbaum**

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 24, 2006

Rules suspended

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission, the People's Counsel, and the Office of People's**
3 **Counsel**

4 FOR the purpose of altering the manner of appointment of the members of the Public
5 Service Commission; altering certain eligibility requirements of members of the
6 Commission; providing that the Office of People's Counsel is a unit of the Office
7 of the Attorney General; altering the manner of appointment of the People's
8 Counsel; providing that the People's Counsel serves at the pleasure of the
9 Attorney General; providing that the People's Counsel and the Office of the
10 Attorney General shall administer and operate the Office of People's Counsel;
11 providing for the termination of office of each member of the Commission
12 serving on a certain date; providing for the terms of the members of the
13 Commission appointed under this Act; providing for the removal of the People's
14 Counsel; transferring the functions and activities of the Office of People's
15 Counsel to the Office of the Attorney General; providing that certain employees
16 of the Office of People's Counsel who are transferred to the Office of the Attorney
17 General under this Act shall be transferred without any diminution of their
18 rights, benefits, or employment status; providing for the construction of this Act;
19 making this Act an emergency measure; and generally relating to the Public
20 Service Commission, the People's Counsel, and the Office of People's Counsel.

21 BY repealing and reenacting, with amendments,
22 Article - Public Utility Companies
23 Section 2-102, 2-202, and 2-204
24 Annotated Code of Maryland
25 (1998 Volume and 2005 Supplement)

26 BY adding to
27 Article - Public Utility Companies

1 Section 2-201.1
2 Annotated Code of Maryland
3 (1998 Volume and 2005 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Public Utility Companies**

7 2-102.

8 (a) The Commission consists of five commissioners[, appointed by the
9 Governor with the advice and consent of the Senate] APPOINTED AS FOLLOWS:

10 (1) ONE COMMISSIONER APPOINTED BY THE PRESIDENT OF THE
11 SENATE;

12 (2) ONE COMMISSIONER APPOINTED BY THE SPEAKER OF THE HOUSE
13 OF DELEGATES;

14 (3) ONE COMMISSIONER APPOINTED BY THE ATTORNEY GENERAL; AND

15 (4) TWO COMMISSIONERS APPOINTED BY THE GOVERNOR.

16 (b) (1) Each commissioner shall be a registered voter of the State.

17 (2) [The Commission shall be broadly representative of the public
18 interest and shall be composed of individuals with diverse training and experience.]
19 EACH COMMISSIONER MUST HAVE EXPERIENCE IN PUBLIC UTILITY REGULATION
20 AND MAY NOT BE APPOINTED AS REPRESENTING OR SUPPORTING ANY SPECIAL
21 INTEREST.

22 (3) A COMMISSIONER MAY NOT HAVE BEEN EMPLOYED BY A PUBLIC
23 SERVICE COMPANY FOR AT LEAST 5 YEARS IMMEDIATELY PRECEDING
24 APPOINTMENT TO THE COMMISSION.

25 (c) Each commissioner shall devote full time to the duties of office.

26 (d) (1) The term of a commissioner is 5 years and begins on July 1.

27 (2) The terms of commissioners are staggered as required by the terms in
28 effect for commissioners on [October 1, 1998] JULY 1, 2006.

29 (3) At the end of a term, a commissioner continues to serve until a
30 successor qualifies.

31 (4) A commissioner who is appointed after a term has begun serves for
32 the rest of the term and until a successor qualifies.

1 (e) Before taking office, each appointee to the Commission shall take the oath
2 required by Article I, § 9 of the Maryland Constitution.

3 (f) The Governor may remove a commissioner for incompetence or misconduct
4 in accordance with § 3-307 of the State Government Article.

5 2-201.1.

6 THE OFFICE OF PEOPLE'S COUNSEL IS A UNIT OF THE OFFICE OF THE
7 ATTORNEY GENERAL.

8 2-202.

9 (a) [With the advice and consent of the Senate, the Governor] THE ATTORNEY
10 GENERAL shall appoint the People's Counsel.

11 (b) The People's Counsel serves at the pleasure of the [Governor] ATTORNEY
12 GENERAL.

13 (c) The People's Counsel shall have been admitted to practice law in the State.

14 (d) Before taking office, the People's Counsel shall take the oath required by
15 Article I, § 9 of the Maryland Constitution.

16 (e) The People's Counsel shall devote full time to the duties of office.

17 (f) The People's Counsel is entitled to a salary of at least \$35,000 a year as
18 provided in the State budget.

19 2-204.

20 (a) (1) The Office of People's Counsel shall evaluate each matter pending
21 before the Commission to determine if the interests of residential and noncommercial
22 users are affected.

23 (2) If the Office of People's Counsel considers the interest of residential
24 and noncommercial users to be affected, the Office of People's Counsel shall appear
25 before the Commission and courts on behalf of residential and noncommercial users
26 in each matter or proceeding over which the Commission has original jurisdiction,
27 including a proceeding on the rates, service, or practices of a public service company
28 or on a violation of this article.

29 (3) As the Office of People's Counsel considers necessary, the Office of
30 People's Counsel shall conduct investigations and request the Commission to initiate
31 proceedings to protect the interests of residential and noncommercial users.

32 (b) The People's Counsel AND THE OFFICE OF THE ATTORNEY GENERAL shall
33 administer and operate the Office of People's Counsel.

34 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the
35 provisions of § 2-102 of the Public Utility Companies Article, the term of office of each

1 commissioner of the Public Service Commission serving on the effective date of this
2 Act shall terminate at the end of June 30, 2006. The terms of office of each of the
3 commissioners of the Public Service Commission appointed under Section 1 of this Act
4 shall begin on July 1, 2006, and shall expire as follows:

- 5 (1) one member appointed by the Governor in 2007;
- 6 (2) the member appointed by the Attorney General in 2008;
- 7 (3) the member appointed by the Speaker of the House in 2009;
- 8 (4) the second member appointed by the Governor in 2010; and
- 9 (5) the member appointed by the President of the Senate in 2011.

10 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the
11 provisions of § 2-202 of the Public Utility Companies Article, the People's Counsel in
12 office on the effective date of this Act shall be removed from office at the end of June
13 30, 2006.

14 SECTION 4. AND BE IT FURTHER ENACTED, That the functions and
15 activities of the Office of People's Counsel are transferred to the Office of the Attorney
16 General.

17 SECTION 5. AND BE IT FURTHER ENACTED, That all persons who are
18 classified employees of the Office of People's Counsel before the effective date of this
19 Act and who are transferred to the Office of the Attorney General as part of the
20 transfer of the Office of People's Counsel under this Act shall be transferred without
21 any diminution of their rights, benefits, or employment status, including merit
22 system and retirement status, if any.

23 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in
24 this Act, nothing in this Act shall be construed to affect the funding, employees, or
25 property of the Office of People's Counsel.

26 SECTION 7. AND BE IT FURTHER ENACTED, That this Act is an emergency
27 measure, is necessary for the immediate preservation of the public health or safety,
28 has been passed by a ye and nay vote supported by three-fifths of all the members
29 elected to each of the two Houses of the General Assembly, and shall take effect from
30 the date it is enacted.