

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 363

Representative Troy

**Cosponsors: Representatives Russo, Denson, McNally, Forhan, Weinstein,
Miranda, Rogers, Robinson**

A BILL

To amend sections 4901.02 and 4901.021 and to enact 1
section 4901.022 of the Revised Code to make 2
various changes to the Public Utilities 3
Commission nominating council and nomination 4
process. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4901.02 and 4901.021 be amended 6
and section 4901.022 of the Revised Code be enacted to read as 7
follows: 8

Sec. 4901.02. (A) (1) There is hereby created the public 9
utilities commission of Ohio, by which name the commission may 10
sue and be sued. 11

(2)(a) The commission shall consist of five public 12
utilities commissioners appointed by the governor with the 13
advice and consent of the senate. 14

(b) The governor shall designate one of such commissioners 15
to be the chairperson of the commission. The chairperson of the 16
commission shall serve as chairperson at the governor's 17

pleasure. ~~The~~ 18

(c) Not more than four commissioners shall be selected 19
from the lists of qualified persons submitted to the governor by 20
the public utilities commission nominating council pursuant to 21
section 4901.021 of the Revised Code. 22

(d) At least one of the commissioners shall be a bona fide 23
consumer representative selected by the governor from a list of 24
three nominees submitted to the governor by the office of the 25
consumers' counsel. The first vacancy on the commission to occur 26
after the effective date of this amendment shall be filled from 27
the list submitted by the office of the consumers' counsel. 28

(e) Not more than three of said commissioners shall belong 29
to or be affiliated with the same political party. 30

(f) No commissioner appointed after the effective date of 31
this amendment shall currently be or have previously been a 32
representative or employee of, or have any relation to or 33
business transaction with, any entity or entity's parent, 34
affiliate, or subsidiary that is subject to regulation by the 35
public utilities commission. 36

(3) The commission shall possess the powers and duties 37
specified in, as well as all powers necessary and proper to 38
carry out the purposes of Chapters 4901., 4903., 4905., 4907., 39
4909., 4921., 4923., and 4927. of the Revised Code. 40

(B) A majority of the public utilities commissioners 41
constitutes a quorum. 42

(C) The terms of office of public utilities commissioners 43
shall be for five years, commencing on the eleventh day of April 44
and ending on the tenth day of April, except that terms of the 45
first commissioners shall be for one, two, three, four, and five 46

years, respectively, as designated by the governor at the time 47
of appointment. Each commissioner shall hold office from the 48
date of appointment until the end of the term for which the 49
commissioner was appointed. Any commissioner appointed to fill a 50
vacancy occurring prior to the expiration of the term for which 51
the commissioner was appointed shall hold office for the 52
remainder of such term. Any commissioner shall continue in 53
office subsequent to the expiration date of the term for which 54
the commissioner was appointed until the commissioner's 55
successor takes office, or until a period of sixty days has 56
elapsed, whichever occurs first. Each vacancy shall be filled by 57
appointment within sixty days after the vacancy occurs. 58

(D) Public utilities commissioners shall have at least 59
three years of experience in one or more of the following 60
fields: economics, law, finance, accounting, engineering, 61
physical or natural sciences, natural resources, ~~or~~ 62
environmental studies, social sciences, social services, 63
consumer representation, or education and research in utility 64
regulation. At least one commissioner shall be an attorney 65
admitted to the practice of law in any state or the District of 66
Columbia. 67

(E) The chairperson of the commission shall be the head of 68
the commission and its chief executive officer. The appointment 69
or removal of employees of the commission or any division 70
thereof, and all contracts for special service, are subject to 71
the approval of the chairperson. The chairperson shall designate 72
one of the commissioners to act as deputy chairperson, who shall 73
possess during the absence or disability of the chairperson, all 74
of the powers of the chairperson. 75

(F) (1) Commissioner applicants shall disclose on the 76

application all services rendered to any public utility, 77
regardless of whether services were remunerated. 78

(2) Applications submitted by commissioner applicants are 79
public records in accordance with section 149.43 of the Revised 80
Code. 81

Sec. 4901.021. (A) There is hereby created a public 82
utilities commission nominating council consisting of the 83
following: 84

(1) The chairperson of the consumers' counsel governing 85
board; 86

(2) The president of the accountancy board; 87

~~(3) The chairperson of the state board of registration for~~ 88
~~professional engineers and surveyors;~~ 89

~~(4) The president of the Ohio state bar association;~~ 90

~~(5) (4) The president of the Ohio municipal league;~~ 91

~~(6) (5) The director of development or the director's~~ 92
department-employed designee; 93

(6) A representative of minority communities appointed by 94
the governor, to serve at the pleasure of the governor; 95

(7) A member of the public who is an active member of a 96
bona fide consumer protection organization appointed by the 97
speaker of the house of representatives, to serve at the 98
pleasure of the speaker; 99

(8) A member of the public who is an active member of a 100
bona fide consumer protection organization appointed by the 101
president of the senate, to serve at the pleasure of the 102
president; 103

(9) A member of the public appointed by the minority leader of the house of representatives, to serve at the pleasure of the minority leader of the house of representatives; 104
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(10) A member of the public appointed by the minority leader of the senate, to serve at the pleasure of the minority leader of the senate; 107
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(11) A representative of the regulated public utilities of the state appointed by the governor, to serve at the pleasure of the governor; 110
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~~(10)~~-(12) A representative of the business community who is a member of a bona fide statewide trade association appointed by the governor, to serve at the pleasure of the governor; 113
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~~(11)~~-(13) A representative of organized labor appointed by the governor, to serve at the pleasure of the governor; 116
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~~(12)~~-(14) A senior citizen sixty-five years of age or older who is an officer of a bona fide statewide association for advocacy for older persons appointed by the director of aging, to serve at the pleasure of the director. 118
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(B) (1) Except for the member described in division (A) (11) of this section, no member of the council appointed after the effective date of this amendment shall currently be or have previously been a representative or employee of, or have any relation to, any entity or entity's parent, affiliate, or subsidiary, that is subject to regulation by the public utilities commission. 122
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(2) No member of the council appointed after the effective date of this amendment shall engage in business with, hold stocks or bonds in, or have pecuniary interest in any entity or entity's parent, affiliate, or subsidiary, that is subject to 129
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regulation by the public utilities commission. 133

(C) Interviews of commissioner applicants shall be 134
conducted in public meetings in accordance with section 121.22 135
of the Revised Code. No interview shall be conducted during an 136
executive session under section 121.22 of the Revised Code. 137

(D) Except for the members described in divisions (A) (1) 138
to (5) of this section, no member of the council shall serve on 139
the council for more than two years. 140

(E) (1) The first member described under division (A) (6) of 141
this section shall be appointed upon the first vacancy of the 142
chairperson of the state board of registration for professional 143
engineers and surveyors that occurs after the effective date of 144
this amendment. 145

(2) The members described under divisions (A) (7), (8), 146
(12), and (14) of this section shall be appointed, in accordance 147
with requirements under this act, upon the first vacancies by 148
the members' respective predecessors after the effective date of 149
this amendment. 150

(3) The members described under divisions (A) (9) and (10) 151
of this section shall be appointed upon the effective date of 152
this amendment. 153

(F) At its first meeting each calendar year, the council 154
shall select from among its members a chairperson and secretary. 155
The chairperson and secretary shall serve not more than two one- 156
year terms in those positions. The council may adopt bylaws 157
governing its proceedings. 158

~~(C)~~ (G) The council shall keep a record of its 159
proceedings. Special meetings may be called by the chairperson, 160
and shall be called by the chairperson upon receipt of a written 161

request for a meeting signed by two or more members of the 162
council. Written notice of the time and place of each meeting 163
shall be sent to each member of the council. With the approval 164
of the association's or league's governing body, the president 165
of the Ohio state bar association or the president of the Ohio 166
municipal league, respectively, may designate an alternate to 167
represent the president at meetings of the council. With the 168
approval of the board, the president of the accountancy board or 169
the chairperson of the state board of registration for 170
professional engineers and surveyors may designate such an 171
alternate. Six members, or their alternates, constitute a 172
quorum. 173

~~(D)~~ (H) The council shall: 174

(1) Review and evaluate possible appointees for the office 175
of commissioner of the public utilities commission; 176

(2) Consistent with division (D) of section 4901.02 of the 177
Revised Code, not more than eighty-five nor less than sixty days 178
prior to the expiration of the term of a public utilities 179
commissioner or not more than thirty days after the death of, 180
resignation of, or termination of service by, a public utilities 181
commissioner, provide the governor with a list of four 182
individuals who are, in the judgment of the council, the most 183
fully qualified to accede to the office of commissioner. The 184
council shall not include the name of an individual upon the 185
list, if the appointment of that individual by the governor 186
would result in more than three members of the commission 187
belonging to or being affiliated with the same political party. 188
The council shall include on the list only the names of 189
attorneys admitted to the practice of law in any state or the 190
District of Columbia if an attorney must be appointed to fulfill 191

the requirement of division (D) of section 4901.02 of the Revised Code. ~~To the extent possible, in its performance of this duty, the council shall continually attempt to ensure that the primary focus of the background of two commissioners is in energy and that the primary focus of the background of two commissioners is in transportation or communications technology.~~

~~(E)-(I)~~ In reviewing and evaluating possible appointees for the office of public utilities commissioner, the council ~~may accept~~ shall invite comments from, cooperate with, and request information from any person. ~~The~~

(J) The council may make recommendations to the general assembly concerning changes in legislation to assist the council in the performance of its duties.

~~(F)-(K)~~ Within thirty days of receipt of the council's recommendations, the governor shall fill a vacancy occurring in the office of commissioner by appointment of one of the persons recommended by the council. Nothing in this section shall prevent the governor in the governor's discretion from rejecting all of the nominees of the council and reconvening the council in order to select four additional nominees. However, when the governor has reconvened the council and the council has provided the governor with a second list of four names, the governor shall make the appointment from one of the names on the first list or the second list. Each appointment by the governor shall be subject to the advice and consent of the senate.

~~(G)-(L)~~ Members of the council shall be compensated on a per diem basis pursuant to the procedures set forth in section 124.14 of the Revised Code plus reasonable travel expenses. All the expenses of the nominating council shall be paid from moneys appropriated to the public utilities commission for that

purpose.	222
<u>Sec. 4901.022. The public utilities commission shall make</u>	223
<u>available to the public on the commission's web site information</u>	224
<u>about the following:</u>	225
<u>(A) The operations of the public utilities commission</u>	226
<u>nominating council, including the following:</u>	227
<u>(1) Biographical information for each council member;</u>	228
<u>(2) Meeting notices;</u>	229
<u>(3) Meeting minutes;</u>	230
<u>(4) Biographical information for each commissioner</u>	231
<u>applicant;</u>	232
<u>(5) Video recordings of council meetings and applicant</u>	233
<u>interviews.</u>	234
<u>(B) Opportunities for members of the public to comment</u>	235
<u>electronically or via other means on the following:</u>	236
<u>(1) Commissioner applicants;</u>	237
<u>(2) The nominating council process;</u>	238
<u>(3) Any other subjects relating to the nominating council</u>	239
<u>and the commissioner appointment process.</u>	240
Section 2. That existing sections 4901.02 and 4901.021 of	241
the Revised Code are hereby repealed.	242