



State of Tennessee
PUBLIC CHAPTER NO. 1070

SENATE BILL NO. 2247

By Norris, Faulk

Substituted for: House Bill No. 2385

By McCormick, Marsh

AN ACT to amend Tennessee Code Annotated, Title 65, relative to the Tennessee Regulatory Authority.

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

SECTION 1. Tennessee Code Annotated, Section 65-1-101, is amended by deleting the section in its entirety and by substituting instead the following language:

(a) There is created the Tennessee Regulatory Authority consisting of five (5) part-time directors. The directors shall be appointed as follows: one (1) director shall be appointed by the governor, one (1) director shall be appointed by the Speaker of the Senate, one (1) director shall be appointed by the Speaker of the House of Representatives, and two (2) directors shall be appointed by joint agreement among the governor, the Speaker of the Senate and the Speaker of the House. In making the appointments pursuant to subsection (a), the governor, the Speaker of the Senate and the Speaker of the House of Representatives shall strive to ensure that the Tennessee Regulatory Authority is composed of directors who are diverse in professional or educational background, ethnicity, geographic residency, perspective and experience.

(b) Each director of the authority shall have at a minimum a bachelor's degree and at least three (3) years' experience in a regulated utility industry, in executive level management, or in one (1) or more of the following fields:

- (1) Economics;
- (2) Law;
- (3) Finance;
- (4) Accounting; or
- (5) Engineering.

(c) The directors of the authority shall be state officers and, except for the staggered terms provided in subsection (h), shall serve six-year terms.

(d) The governor, the Speaker of the Senate, and the Speaker of the House of Representatives shall make appointments by April 1 prior to the expiration of the terms of office of the directors.

(e) The term of office of each director shall commence on July 1, following such director's appointment.

(f) All appointments of the directors shall be confirmed by joint resolution adopted by each house of the general assembly within thirty (30) days after the appointment.

(g) Any vacancy on the authority shall be filled by the original appointing authority for such position to serve the unexpired term and each appointment shall be confirmed in the same manner as the original appointment. If, however, the general assembly is not in session and a vacancy occurs, the appropriate appointing authority shall fill such vacancy by appointment and the appointee shall serve the unexpired term, unless the appointment is not confirmed within thirty (30) days after the general assembly convenes following the appointment to fill such vacancy.

(h) The terms of current directors appointed during 2008 and directors appointed during 2012 shall be staggered and shall expire as follows:

(1) The terms of the existing directors appointed by the Speaker of the House and the Speaker of the Senate shall expire on June 30, 2014.

(2) The term of the existing director appointed by the governor shall expire on June 30, 2017.

(3) The terms of the joint directors commencing on July 1, 2012, shall expire on June 30, 2018.

(i) A director shall continue to serve until his or her successor is appointed.

SECTION 2. Tennessee Code Annotated, Section 65-1-103, is amended by deleting subsection (a) and substituting instead the following:

(a) The directors shall convene regular monthly meetings and shall remain in session until all business before them is disposed of, and shall hold other sessions at such times and places as may be necessary for the proper discharge of their duties. If the business of the authority does not require a monthly meeting, a majority of the directors may waive the requirement of a meeting.

SECTION 3. Tennessee Code Annotated, Section 65-1-104, is amended by deleting subsection (a) and substituting instead the following:

(a) A majority of the directors of the Tennessee Regulatory Authority shall constitute a quorum for the transaction of business. The authority shall elect one (1) of its directors to be the chair of the authority for a two-year term and shall elect one (1) of its directors to be the vice-chair of the authority for a two-year term. The vice-chair shall assume the role of chair at the expiration of the chair's two-year term.

SECTION 4. Tennessee Code Annotated, Section 65-1-104, is amended by deleting subsection (b) and substituting instead the following:

(b) The chair and vice-chair of the authority may be removed by a majority vote of the disinterested directors.

SECTION 5. Tennessee Code Annotated, Section 65-1-104, is amended by deleting subsection (c) and substituting instead the following:

(c) The chair shall have the primary responsibility of formulating the broad strategies, goals, objectives, long-range plans and policies of the authority, in conjunction with the directors. The chair shall also have the power and duty to conduct ordinary and necessary business in the name of the authority. Such duties include, but are not limited to, the following:

(1) Giving notice of, and agendas for, all meetings of the authority to all directors in advance of the meeting;

(2) Assigning matters to be heard by panels in accordance with Section 65-1-104;

(3) Preparing and calling the docket items to be heard during each scheduled meeting of the authority;

(4) Keeping the official, full and correct record of all proceedings and transactions of the authority;

(5) Serving as the designated contact for all media inquiries to the authority;

(6) Ensuring that orders by the authority are issued in a timely manner and in accordance with the rules and procedures established by the executive director;

(7) Conducting a yearly performance evaluation of the executive director, which shall be submitted to the governor;

(8) Delegating duties of the chair to the vice-chair; and

(9) Performing such other duties as the authority may assign or as may be required by statute, rule or regulation.

SECTION 6. Tennessee Code Annotated, Section 65-1-104, is further amended by deleting subsection (d) in its entirety and substituting instead the following:

(d) The chair shall assign each matter before the authority to a panel of three (3) voting members, from among the directors. The remaining two (2) voting members of the authority, who are not assigned to a particular panel, shall not vote or deliberate regarding such matters. The authority shall establish reasonable procedures for rotating the directors for assignments to panels in an efficient manner. Such procedures shall ensure that all voting members of the authority serve on a substantially equal number of panels in a random fashion, to the extent practicable.

SECTION 7. Tennessee Code Annotated, Section 65-1-105, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The compensation of each director of the Tennessee Regulatory Authority shall be thirty-six thousand dollars (\$36,000) per year payable monthly out of the state treasury on the warrant of the Commissioner of Finance and Administration. When directors are assigned to serve on a panel lasting more than one (1) day, the director shall be compensated one hundred forty dollars (\$140) for each day, or portion of a day, following the first day, for the duration of the matter. Such compensation shall be in addition to reimbursement for actual travel expenses on official business under subsection (b).

(b) The five (5) directors shall be reimbursed for their actual travel expenses on official business in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the attorney general and reporter.

SECTION 8. Tennessee Code Annotated, Section 65-1-1, shall be amended by adding the following new section to be designated as Section 65-1-109:

(a) The executive director shall be appointed by joint agreement among the governor, the Speaker of the Senate and the Speaker of the House of Representatives for the initial term. Thereafter, the directors of the authority shall appoint the executive director. The term of the executive director shall be three (3) years. The executive director shall have at a minimum a bachelor's degree and either a minimum of five (5) years' experience in the regulated utility industry or a minimum of five (5) years' experience in executive-level management, with a preference toward experience in economics, law, finance, accounting or engineering. The executive director shall not be a director of the authority.

(b) The authority may remove the executive director by a majority vote of the directors.

(c) The executive director shall have the principal responsibility of implementing the broad strategies, goals, objectives, long-range plans and policies of the authority. Among the executive director's duties, which are not limited to the following list, are:

(1) Serving as chief operating officer of the authority responsible for the day to day management of the authority and the supervision and hiring of all staff members within the limits of available funds authorized from time to time by the legislature;

(2) Administering, monitoring, and reviewing the operating procedures of each division of the authority, ensuring that each employee and division of the authority fully executes in an efficient and economical manner, the separate duties assigned to each;

(3) Submitting rules and policies for approval by the authority;

(4) Implementing and administering rules and policies for the efficient and economical internal management of the authority;

(5) Coordinating the preparation of the report to the general assembly as required by Section 65-1-111;

(6) Supervising the expenditure of funds and being responsible for complying with all applicable provisions of state and federal law in the receipt and disbursement of funds; and

(7) Performing such other duties as the authority may require, from time to time, or as may be required by statute.

(d) The governor shall set the compensation of the executive director for the initial term of office of the executive director, which shall not exceed the compensation established for the commissioners of the claims commission. Thereafter, the directors of the authority shall set the compensation of the executive director.

(e) The executive director shall submit an annual report to the general assembly comparing telecommunications, electricity, natural gas, water and wastewater utility rates between Tennessee and the southeastern states. For the purpose of reporting rates in the report, the TRA shall make comparisons on the basis of market choices made by consumers without regard to whether the services chosen are regulated or non-regulated services.

SECTION 9. Tennessee Code Annotated, Section 65-1-111, shall be amended by adding the language "and to the Governor" between the words "assembly" and "of".

SECTION 10. Tennessee Code Annotated, Section 65-1-111, is further amended by designating the language as subsection (a), and by adding the following language, to be designated as subsection (b):

(b) The Tennessee Regulatory Authority shall prepare an annual report comparing, for the preceding fiscal year, the rates of municipal utilities, cooperatives, and utility districts providing water, gas or electricity to the rates of water, gas and electric utilities regulated by the authority. No later than October 1, 2012, and prior to October 1 of each subsequent year, the report shall be submitted to the governor, the Speaker of the Senate, the Speaker of the House of Representatives, and the members of the Finance, Ways and Means Committees of the Senate and the House of Representatives.

SECTION 11. Tennessee Code Annotated, Title 65, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

65-1-____. Tennessee Regulatory Authority directors shall be deemed state employees as defined in § 8-27-201(g) and shall be eligible for participation in group insurance for state officials and employee plans as approved by the general assembly.

SECTION 12. For purpose of setting the compensation of existing directors who are serving unexpired terms, Section 7 shall take effect January 1, 2013, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2012, the public welfare requiring it.

SENATE BILL NO. 2247

PASSED: May 1, 2012



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 21st day of May 2012



BILL HASLAM, GOVERNOR