

# HOUSE BILL 327

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By: **Delegate Korman**

Introduced and read first time: January 27, 2016

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission Reform Act**

3 FOR the purpose of providing that not more than a certain number of commissioners of the  
4 Public Service Commission may be of the same political party; providing that not  
5 more than a certain number of commissioners may be from a single county; providing  
6 that the appointment of a commissioner is subject to certain restrictions on  
7 representing a certain company or appearing before the Commission, or receiving  
8 certain benefits, for a certain period before the appointment; requiring the  
9 Commission to conduct at least a certain number of customer service meetings each  
10 year in different regions of the State; requiring that each commissioner be assigned  
11 at least a certain number of personal staff members for certain purposes; providing  
12 that certain staff members may be pooled; establishing a Division of Customer  
13 Complaints and Affairs in the staff of the Commission for certain purposes;  
14 authorizing the Division to participate in certain proceedings in certain manners;  
15 altering the total amount that a public service company may be charged for a State  
16 fiscal year for certain purposes; providing that the Commission and its personnel  
17 and contractors have access to certain premises for certain purposes, subject to a  
18 certain limitation; requiring that a representative of the Commission actively  
19 participate in performing a certain meter test under certain circumstances; including  
20 the Commission in the State Customer Service and Business Development Efforts  
21 Training Program of the Office of the Business Ombudsman; providing for the  
22 continuity of a certain unit of the Commission; stating the intent of the General  
23 Assembly concerning certain positions in a certain unit of the Commission; requiring  
24 the Department of Legislative Services to conduct a certain review of the  
25 Commission for certain purposes; authorizing the Department to consult with  
26 certain persons for certain purposes; requiring certain units to cooperate with the  
27 Department for certain purposes; requiring the Department to report to the General  
28 Assembly on or before a certain date; providing for the application of this Act;  
29 providing that existing obligations or contract rights may not be impaired by this  
30 Act; and generally relating to the Public Service Commission.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY repealing and reenacting, without amendments,  
 2 Article – Public Utilities  
 3 Section 1–101(a) and (g)  
 4 Annotated Code of Maryland  
 5 (2010 Replacement Volume and 2015 Supplement)
- 6 BY repealing and reenacting, with amendments,  
 7 Article – Public Utilities  
 8 Section 2–102, 2–108, 2–110, 2–114, 2–306, and 7–302  
 9 Annotated Code of Maryland  
 10 (2010 Replacement Volume and 2015 Supplement)
- 11 BY repealing and reenacting, with amendments,  
 12 Article – Economic Development  
 13 Section 14–204  
 14 Annotated Code of Maryland  
 15 (2008 Volume and 2015 Supplement)

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

18 **Article – Public Utilities**

19 1–101.

20 (a) In this division the following words have the meanings indicated.

21 (g) “County” means a county of the State or Baltimore City.

22 2–102.

23 (a) The Commission consists of five commissioners, appointed by the Governor  
 24 with the advice and consent of the Senate.

25 (b) (1) **(I)** Each commissioner shall be a registered voter of the State.

26 **(II) NOT MORE THAN THREE COMMISSIONERS MAY BE OF THE**  
 27 **SAME POLITICAL PARTY.**

28 (2) **(I)** The Commission shall be:

29 **[(i)] 1.** broadly representative of the geographic and demographic  
 30 diversity of the State and of the public; and

31 **[(ii)] 2.** composed of individuals with diverse training and  
 32 experience.

1                   **(II) NOT MORE THAN TWO COMMISSIONERS MAY BE APPOINTED**  
2 **FROM A SINGLE COUNTY.**

3                   **(III) THE APPOINTMENT OF A COMMISSIONER IS SUBJECT TO**  
4 **§ 2-306 OF THIS TITLE.**

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

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

7                   (2)    The terms of commissioners are staggered as required by the terms in  
8 effect for commissioners on July 1, 2006.

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

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

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

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

17 2-108.

18           (a)     (1)    The principal office of the Commission shall be in Baltimore City at the  
19 place that the Commission selects.

20                   (2)    Except for legal holidays, the offices of the Commission shall be open  
21 for business during regular business hours from Monday through Friday and at other times  
22 as the Commission considers necessary.

23           (b)     **(1)**    The Commission shall meet at the times and places in the State as the  
24 Commission considers necessary.

25                   **(2)**    **TO ENHANCE CUSTOMER SERVICE AND OUTREACH ACTIVITIES,**  
26 **THE COMMISSION SHALL CONDUCT AT LEAST TWO CUSTOMER SERVICE MEETINGS**  
27 **EACH YEAR IN DIFFERENT REGIONS OF THE STATE, EITHER IN CONJUNCTION WITH**  
28 **OR SEPARATE FROM REGULAR BUSINESS MEETINGS OF THE COMMISSION.**

29           (c)     The Commission shall have a seal.

1 (d) (1) The State budget shall provide sufficient money for the Commission to  
2 hire, develop, and organize a staff to perform the functions of the Commission, including  
3 analyzing data submitted to the Commission and participating in proceedings as provided  
4 in § 3–104 of this article.

5 (2) (i) As the Commission considers necessary, the Commission shall  
6 hire experts including economists, cost of capital experts, rate design experts, accountants,  
7 engineers, transportation specialists, and lawyers.

8 (ii) To assist in the regulation of intrastate hazardous liquid  
9 pipelines under Title 11, Subtitle 2 of this article, the Commission shall include on its staff  
10 at least one engineer who specializes in the storage of and the transportation of hazardous  
11 liquid materials by pipeline.

12 (3) The Commission may retain on a case by case basis additional experts  
13 as required for a particular matter.

14 (4) The lawyers who represent the Commission staff in proceedings before  
15 the Commission shall be appointed by the Commission and shall be organized and operate  
16 independently of the office of General Counsel.

17 (5) (i) As required, the Commission shall hire public utility law judges.

18 (ii) Public utility law judges are a separate organizational unit and  
19 shall report directly to the Commission.

20 (6) (I) The Commission shall hire personal staff members for each  
21 commissioner as required to provide advice, draft proposed orders and rulings, and perform  
22 other personal staff functions.

23 (II) EACH COMMISSIONER SHALL BE ASSIGNED AT LEAST TWO  
24 PERSONAL STAFF MEMBERS, AT LEAST ONE OF WHOM MAY ASSIST THE  
25 COMMISSIONER IN POLICY MATTERS.

26 (III) OTHER STAFF MEMBERS WHO DIRECTLY OR INDIRECTLY  
27 SERVE THE COMMISSIONERS MAY BE POOLED.

28 (7) Subject to § 3–104 of this article, the Commission may delegate to a  
29 commissioner or personnel the authority to perform an administrative function necessary  
30 to carry out a duty of the Commission.

31 (8) (I) THERE IS A DIVISION OF CUSTOMER COMPLAINTS AND  
32 AFFAIRS IN THE STAFF OF THE COMMISSION.

33 (II) THE DIVISION SHALL:

1                   **1. INVESTIGATE COMPLAINTS FROM CONSUMERS**  
2 **CONCERNING GAS, ELECTRIC, TELEPHONE, AND WATER SERVICE;**

3                   **2. MEDIATE DISPUTES BETWEEN CONSUMERS AND**  
4 **UTILITY COMPANIES BASED ON APPLICABLE LAWS, REGULATIONS, AND TARIFFS;**  
5 **AND**

6                   **3. PROVIDE EDUCATIONAL INFORMATION ABOUT THE**  
7 **COMMISSION AND ITS DECISIONS, UTILITIES, AND SUPPLIERS TO CONSUMERS AND**  
8 **CONSUMER GROUPS, TRADE ORGANIZATIONS, FINANCIAL INSTITUTIONS, ELECTED**  
9 **OFFICIALS, AND THE PUBLIC.**

10                   **(III) THE DIVISION MAY PARTICIPATE SEPARATELY OR WITH**  
11 **OTHER STAFF OF THE COMMISSION IN PROCEEDINGS BEFORE THE COMMISSION**  
12 **UNDER TITLE 3 OF THIS ARTICLE.**

13                   **(9)** (i) Except as provided in subparagraph (ii) of this paragraph or  
14 otherwise by law, all personnel of the Commission are subject to the provisions of the State  
15 Personnel and Pensions Article.

16                   (ii) The following are in the executive service, management service,  
17 or are special appointments in the State Personnel Management System:

- 18                   1. each commissioner of the Commission;
- 19                   2. the Executive Director;
- 20                   3. the General Counsel and each assistant general counsel;
- 21                   4. the Executive Secretary;
- 22                   5. the commissioners' personal staff members;
- 23                   6. the chief public utility law judge; and
- 24                   7. each license hearing officer.

25                   (e) The compensation of the following personnel shall be determined by the  
26 Commission and, if possible, in accordance with the State pay plan:

- 27                   (1) the Executive Director;
- 28                   (2) the General Counsel;
- 29                   (3) the special appointment attorneys in the office of General Counsel;

- 1 (4) the Executive Secretary;
- 2 (5) the chief public utility law judge;
- 3 (6) each license hearing officer; and
- 4 (7) all Commission personnel in positions in:
- 5 (i) the management service; and
- 6 (ii) professional and technical classifications unique to the
- 7 Commission.

8 (f) (1) At least 45 days before the effective date of the change, the Commission

9 shall submit to the Secretary of Budget and Management each change to salary plans that

10 involves increases or decreases in salary ranges other than those associated with routine

11 reclassifications and promotions or general salary increases approved by the General

12 Assembly.

13 (2) Reportable changes include creation or abolition of classes, regrading

14 the classes from one established range to another, changes in salary guidelines to

15 administer the pay schedules, or creation of new pay schedules or ranges.

16 (3) The Secretary of Budget and Management shall:

17 (i) review the proposed changes; and

18 (ii) at least 15 days before the effective date of the proposed changes,

19 advise the Commission whether the changes would have an adverse effect on comparable

20 State jobs.

21 (4) Failure of the Secretary to respond in a timely manner is not considered

22 a statement of adverse effect.

23 (g) On or before January 31 of each year, the Commission shall report to the

24 Secretary of Budget and Management and, subject to § 2–1246 of the State Government

25 Article, to the General Assembly setting forth all personnel positions, classifications, and

26 salaries in the Commission as of the end of the preceding calendar year.

27 2–110.

28 (a) In this section, “public service company” includes an electricity supplier and a

29 gas supplier as those terms are defined in § 1–101 of this article.

30 (b) (1) The costs and expenses of the Commission and the Office of People’s

31 Counsel shall be borne by the public service companies that are subject to the Commission’s

32 jurisdiction.

1           (2)     The costs and expenses shall be assessed as provided in this section.

2           (3)     The Commission shall pay the money that it collects for the assessment  
3 under this section into the Public Utility Regulation Fund in the State Treasury established  
4 under § 2–110.1 of this subtitle to reimburse the State for the expenses of the Commission  
5 and the Office of People’s Counsel.

6           (c)     (1)     (i)     Before each State fiscal year, the Chairman of the Commission  
7 shall estimate the Commission’s total costs and expenses, including:

8                           1.     the compensation and expenses of the Commission, its  
9 officers, agents, and personnel;

10                           2.     the cost of retirement contributions, Social Security,  
11 health insurance, and other benefits required to be paid by the State for the personnel of  
12 the Commission;

13                           3.     all other maintenance and operation expenses of the  
14 Commission; and

15                           4.     all other direct and indirect costs of the Commission.

16                   (ii)     The estimate shall exclude the expenses associated with services  
17 performed by the Commission for which the Commission is reimbursed under this division.

18                   (iii)    The estimate shall include, as provided by the Office of People’s  
19 Counsel:

20                           1.     the compensation and expenses of the Office of People’s  
21 Counsel, its officers, agents, and personnel;

22                           2.     the cost of retirement contributions, Social Security,  
23 health insurance, and other benefits required to be paid by the State for the personnel of  
24 the Office of People’s Counsel;

25                           3.     all other maintenance and operation expenses of the Office  
26 of People’s Counsel; and

27                           4.     all other direct and indirect costs of the Office of People’s  
28 Counsel.

29           (2)     Based on the estimate, the Chairman shall determine the amount to be  
30 paid by each public service company.

31           (3)     The Commission shall send a bill to each public service company on or  
32 before May 1 of each year.

1 (4) (i) The bill shall equal the product of:

2 1. the estimated total costs and expenses of the Commission  
3 and the Office of People's Counsel during the next fiscal year; multiplied by

4 2. the ratio of the gross operating revenues for the public  
5 service company derived from intrastate utility and electricity supplier operations in the  
6 preceding calendar year, or other 12-month period as the Chairman determines, to the  
7 total of the gross operating revenues derived from intrastate utility and electricity supplier  
8 operations for all public service companies that are billed under this section over that  
9 period.

10 (ii) To the extent that the Commission requires an electric company  
11 to report the gross operating revenue derived from intrastate utility and electricity supplier  
12 operation in order to calculate the bill under subparagraph (i) of this paragraph, a small  
13 rural electric cooperative described in § 7-502(a) of this article may satisfy the requirement  
14 by submitting to the Commission an estimate made in accordance with a formula approved  
15 by the Commission from information that the small rural electric cooperative submits to  
16 the rural utilities service.

17 (5) The minimum bill for a public service company shall be \$10.

18 (6) The public service company:

19 (i) shall pay the bill on or before the next July 15; or

20 (ii) may elect to make partial payments on the 15th days of July,  
21 October, January, and April.

22 (7) A partial payment shall equal 25% of the bill and may not be less than  
23 \$10.

24 (8) During any State fiscal year, the Chairman may change the estimate of  
25 costs and expenses of the Commission and the estimate of costs and expenses of the Office  
26 of People's Counsel, as changed by the People's Counsel.

27 (9) (i) If the estimate is changed, the Commission shall send a revised  
28 bill to each public service company that has elected to make partial payments.

29 (ii) The change shall be apportioned equally against the remaining  
30 payments for the fiscal year.

31 (10) (i) On or before September 15 of each year, the Chairman shall  
32 compute the actual costs and expenses of the Commission, and the actual costs and  
33 expenses of the Office of People's Counsel, as provided by the People's Counsel for the  
34 preceding fiscal year.



1 (ii) If the amounts collected are less than the actual costs and  
2 expenses of the Commission and the Office of the People's Counsel, after deducting the  
3 amounts recovered under §§ 2-111(a) and 2-123 of this subtitle, on or before October 15,  
4 the Chairman shall send to any public service company that is affected a statement that  
5 shows the amount due.

6 (iii) If the amounts collected exceed the actual costs and expenses of  
7 the Commission and the Office of the People's Counsel for the preceding fiscal year, the  
8 Commission shall deduct any excess retained funds from the appropriation for the next  
9 fiscal year before the Commission determines the amount to be paid by each public service  
10 company for the next fiscal year under paragraph (2) of this subsection.

11 (11) A public service company shall pay an amount due within 30 days after  
12 the statement is received.

13 (12) The total amount that may be charged to a public service company  
14 under this section for a State fiscal year may not exceed:

15 (i) ~~[0.17%]~~ **0.2%** of the public service company's gross operating  
16 revenues derived from intrastate utility and electricity supplier operations in the preceding  
17 calendar year, or other 12-month period that the Chairman determines, for the costs and  
18 expenses of the Commission other than that of the Office of People's Counsel; plus

19 (ii) ~~[0.05%]~~ **0.055%** of those revenues for the costs and expenses of  
20 the Office of People's Counsel.

21 (d) (1) Within 30 days after the Commission issues a bill under subsection (c)  
22 of this section, the party billed may request a hearing as to the amount of the bill.

23 (2) Any amount of a bill that is not paid within 30 days after the date of  
24 determination on a hearing or, if a hearing is not requested, on the date when payment is  
25 due, shall bear annual interest at a rate, not less than 6%, that the Commission sets by  
26 regulation.

27 2-114.

28 (A) To inspect a plant of a public service company, the Commission may:

29 (1) have access to the plant;

30 (2) set up and use equipment in the plant as needed; and

31 (3) occupy space in the plant as the Commission considers reasonably  
32 necessary to inspect or test.

1           **(B) TO INVESTIGATE A CUSTOMER COMPLAINT, THE COMMISSION AND ITS**  
2 **PERSONNEL AND CONTRACTORS MAY HAVE ACCESS TO EQUIPMENT ON THE**  
3 **CUSTOMER'S PREMISES.**

4 2-306.

5           **(A) AN INDIVIDUAL MAY NOT BE APPOINTED TO SERVE AS A COMMISSIONER**  
6 **IF, WITHIN 1 YEAR PRECEDING THE APPOINTMENT, THE INDIVIDUAL HAS:**

7                   **(1) REPRESENTED A PUBLIC SERVICE COMPANY BEFORE THE**  
8 **COMMISSION;**

9                   **(2) APPEARED BEFORE THE COMMISSION ON BEHALF OF A PARTY TO**  
10 **A COMMISSION PROCEEDING;**

11                   **(3) APPEARED BEFORE THE COMMISSION ON A MATTER WITHIN THE**  
12 **JURISDICTION OF THE COMMISSION; OR**

13                   **(4) RECEIVED A FINANCIAL BENEFIT THAT IS NOT OTHERWISE**  
14 **GENERALLY AVAILABLE TO THE PUBLIC AS A CUSTOMER OF A PUBLIC SERVICE**  
15 **COMPANY FROM:**

16                           **(I) A PUBLIC SERVICE COMPANY THAT IS SUBJECT TO THE**  
17 **JURISDICTION OF THE COMMISSION; OR**

18                           **(II) A PERSON THAT DIRECTLY OR INDIRECTLY, OR THROUGH**  
19 **ONE OR MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER**  
20 **COMMON CONTROL WITH A PUBLIC SERVICE COMPANY THAT IS SUBJECT TO THE**  
21 **JURISDICTION OF THE COMMISSION.**

22           **[(a)] (B) Until at least 2 years have passed after leaving service as a**  
23 **commissioner or the People's Counsel, an individual may not:**

24                   (1) represent a public service company before the Commission;

25                   (2) appear before the Commission on behalf of a party to a Commission  
26 proceeding; or

27                   (3) appear before the Commission on a matter within the jurisdiction of the  
28 Commission.

29           **[(b)] (C) Until at least 1 year has passed after leaving service with the**  
30 **Commission as the General Counsel or a public utility law judge, an individual may not:**

31                   (1) represent a public service company before the Commission;

1                   (2)    appear before the Commission on behalf of a party to a Commission  
2 proceeding; or

3                   (3)    appear before the Commission on a matter within the jurisdiction of the  
4 Commission.

5           **[(c)] (D)**    Until at least 1 year has passed after leaving service with the  
6 Commission as a commissioner, an individual may not receive financial benefit that is not  
7 otherwise generally available to the public as a customer of a public service company from:

8                   (1)    a public service company that is subject to the jurisdiction of the  
9 Commission; or

10                  (2)    a person that directly or indirectly, or through one or more  
11 intermediaries, controls, is controlled by, or is under common control with a public service  
12 company that is subject to the jurisdiction of the Commission.

13 7-302.

14           (a)    (1)    By written request, a consumer may compel the Commission to inspect  
15 and test the consumer's electric meter or gas meter.

16                   (2)    The consumer is entitled to be present for the test.

17                   **(3)    AT THE REQUEST OF THE CONSUMER, A REPRESENTATIVE OF THE**  
18 **COMMISSION:**

19                           **(I)    SHALL ACTIVELY PARTICIPATE IN PERFORMING THE TEST;**  
20 **AND**

21                                   **(II)   MAY NOT RELY ON TESTING CONDUCTED BY PERSONNEL OF**  
22 **THE ELECTRIC COMPANY OR GAS COMPANY.**

23           (b)    (1)    The Commission shall set a percentage tolerance limit for the accuracy  
24 of an electric meter or gas meter.

25                   (2)    The Commission shall order a gas company or electric company to  
26 replace a meter at the company's expense if the meter is incorrect to the prejudice of the  
27 consumer by more than the percentage tolerance limit set by the Commission.

28           (c)    (1)    The Commission shall set a uniform reasonable fee for meter test  
29 services under this section.



1           (3)    develop and conduct customer service training for each employee who  
2 interacts with businesses and members of the public on a regular basis;

3           (4)    adopt and distribute a standard customer service satisfaction survey  
4 for each person the agency serves;

5           (5)    establish an incentive or recognition program for employees who  
6 provide excellent customer service; and

7           (6)    report each year on:

8                   (i)    the training provided to employees, including:

9                           1.    the number of trainings;

10                           2.   the frequency of trainings; and

11                           3.   the specific subject of each training;

12                   (ii)   the responses received from customer service satisfaction  
13 surveys distributed under item (4) of this subsection;

14                   (iii)   the progress of the agency's customer service, including the  
15 metrics the agency uses to assess the customer service of the agency; and

16                   (iv)   the agency's measurable goals for continuing to improve  
17 customer service for the upcoming year.

18           (f)    Each year the Office shall evaluate the State Customer Service and Business  
19 Development Efforts Training Program and make recommendations regarding the  
20 program.

21           SECTION 2. AND BE IT FURTHER ENACTED, That:

22           (a)    The Division of Customer Complaints and Affairs established in the Public  
23 Service Commission under § 2-108(d)(8) of the Public Utilities Article, as enacted by this  
24 Act, is the successor of the former Office of External Relations in the Commission. The  
25 continuity of the Office is retained in the Division, and all personnel, regulations, policies,  
26 transactions, assets, liabilities, obligations, and actions of the Office are continued in the  
27 Division without any change in substance.

28           (b)    It is the intent of the General Assembly that the Public Service Commission  
29 allocate at least 20 full-time equivalent positions to the Division of Customer Complaints  
30 and Affairs and fill those positions not later than July 1, 2017.

31           SECTION 3. AND BE IT FURTHER ENACTED, That:

1 (a) The Department of Legislative Services shall review the structure,  
2 responsibilities, and functions of the Public Service Commission.

3 (b) The purposes of the review are to:

4 (1) evaluate the activities of the Commission to determine whether the  
5 activities are necessary for and responsive to the public interest;

6 (2) identify areas that may no longer be appropriate for governmental  
7 activity or that require increased governmental activity and regulation; and

8 (3) develop recommendations to align the activities of the Commission with  
9 the current and anticipated needs of the State, the entities regulated by the Commission,  
10 and the citizens of the State, and to curtail or eliminate activities that have become  
11 obsolete.

12 (c) In conducting the review, the Department may consult with interested  
13 parties, and may convene advisory working groups of persons with experience and expertise  
14 in the regulation of public utilities and related services.

15 (d) The Commission, the Office of People's Counsel, and all other units of State  
16 government shall cooperate with the Department on request in furtherance of the review  
17 under this section.

18 (e) On or before December 31, 2018, the Department shall report the results of  
19 the review, including any recommendations and proposed legislative and regulatory  
20 changes, to the General Assembly, in accordance with § 2-1246 of the State Government  
21 Article.

22 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
23 apply only prospectively and may not be applied or interpreted to have any effect on or  
24 application to the term, party affiliation, or residence of any commissioner in office before  
25 the effective date of this Act.

26 SECTION 5. AND BE IT FURTHER ENACTED, That a presently existing obligation  
27 or contract right may not be impaired in any way by this Act.

28 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2016.