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Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. DeMora and Hicks-Hudson

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SUMMARY

Public Utilities Commission changes

- Makes the following changes to the composition of the Public Utilities Commission (PUCO):
 - Requires at least one of the five commissioners to be a bona fide consumer representative selected by the Governor from a list submitted by the Office of the Consumers' Counsel (OCC) and not more than four of the commissioners to be selected from lists submitted to the Governor from the PUCO Nominating Council;
 - Prohibits commissioners appointed after the bill's effective date from previously being or continuing as a representative or employee of, or having any relation to or business transaction with, any entity or entity's parent, affiliate, or subsidiary, that is subject to PUCO regulation;
 - Expands the list of one or more fields in which a PUCO commissioner must have three years of experience to include social sciences, social services, consumer representation, or education and research in utility regulation.
- Requires commissioner applicants to disclose on the application all services rendered to any public utility regardless of whether those services were remunerated.
- Designates commissioner applications as public records for purposes of Ohio's Public Records Law.

PUCO Nominating Council changes

- Makes the following changes to the composition of the PUCO Nominating Council:
 - Eliminates the State Board of Registration for Professional Engineers and Surveyors Chairperson from membership;
 - Adds three members to the Council:

- ❖ A representative of minority communities appointed by the Governor, to serve at the Governor's pleasure (to be appointed on the first vacancy of the State Board of Registration for Professional Engineers and Surveyors Chairperson after the bill's effective date);
- ❖ Two members of the public, one appointed by the Minority Leader of the House of Representatives and the other by the Minority Leader of the Senate, to serve at the pleasure of the respective leader who appointed them (to be appointed on the bill's effective date).
- For certain members, adds requirements of active membership in certain bona fide organizations and associations, applicable to their successor members after the bill's effective date;
- Prohibits members (except the member representing Ohio public utilities) appointed after the bill's effective date from previously being, or continuing as, a representative or employee of, or having any relation to, any entity or entity's parent, affiliate, or subsidiary, that is subject to PUCO regulation;
- Prohibits any Council member appointed after the bill's effective date from engaging in business with, holding stocks or bonds in, or having a pecuniary interest in any entity or entity's parent, affiliate, or subsidiary subject to PUCO regulation.
- Requires commissioner interviews to be conducted in public meetings in accordance with Ohio's Sunshine Law and specifies that no interview may be conducted during an executive session.
- Limits certain members' terms to no more than two years.
- Limits the time members may hold the office of chairperson and secretary to no more than two one-year terms in those positions.
- Repeals the requirement that, to the extent possible, the Council must attempt to ensure that two of the commissioners have a background primarily focused in energy, and two have a background primarily focused in transportation or communications technology.
- Changes the current law allowing the Council to accept comments from, cooperate with, and request information from any person when reviewing and evaluating possible PUCO appointees to instead require the Council to invite comments from, cooperate with, and request information from any person.

Online information about PUCO nomination process

- Requires PUCO to make available certain information regarding the operations of the PUCO Nominating Council and opportunities for the public to comment electronically or via other means on various topics related to the Nominating Council and the PUCO nomination process.

DETAILED ANALYSIS

Public Utilities Commission nomination process

The bill makes changes to the Public Utilities Commission (PUCO), PUCO Nominating Council, and the PUCO commissioner nominating process.

PUCO changes

Office of Consumers' Counsel nomination

The bill requires at least one of the five commissioners to be a bona fide consumer representative to be chosen by the Governor from a list of three nominations made by the Office of Consumers' Counsel (OCC) and not more than four of the commissioners to be selected from lists submitted by the PUCO Nominating Council. The bill further specifies that, after the bill's effective date, the next vacancy on PUCO must be filled with an OCC-nominated commissioner. Under current law, all five of the commissioners are selected by the Governor from a list submitted by the Council.¹

Prior employment with a public utility prohibited

The bill prohibits any commissioner appointed after the bill's effective date from being a current representative or employee of, or having previously been such a representative or employee of, or have any relation to or business transaction with, any entity or entity's parent, affiliate, or subsidiary that is subject to PUCO regulation.²

Prior experience

The bill expands the list of fields in which a commissioner must have experience. Under current law, a commissioner must have at least three years of experience in one or more of the following fields: economics, law, finance, accounting, engineering, physical or natural sciences, natural resources, or environmental studies. The bill adds social sciences, social services, consumer representation, and education and research in utility regulation to this list.³

Commissioner applications

The bill requires commissioner applicants to disclose on the application all services rendered to any public utility, regardless of whether those services were remunerated. The bill further designates commissioner applications as public records in accordance with Ohio's Public Record Law.⁴

¹ R.C. 4901.02(A)(2)(c) and (d) and 4901.021.

² R.C. 4901.02(A)(2)(f).

³ R.C. 4901.02(D).

⁴ R.C. 4901.02(F); R.C. 149.43, not in the bill.

PUCO Nominating Council changes

Council composition

Member eliminated

The bill eliminates from membership on the PUCO Nominating Council the chairperson of the State Board of Registration for Professional Engineers and Surveyors.⁵ The bill retains the provision that, with the approval of Board, the chairperson may designate an alternate to represent the chairperson at Council meetings.⁶ This provision will have no effect after the representative of minority communities is appointed in place of that chairperson as specified in the bill and described below.

Members added

The bill adds the following members to the Council:

- A representative of minority communities appointed by the Governor, to serve at the Governor's pleasure, who will be appointed upon the first vacancy of the chairperson of the State Board of Registration for Professional Engineers and Surveyors that occurs after the bill's effective date;⁷
- Two members of the public, one appointed by the Minority Leader of the House of Representatives and another appointed by the Minority Leader in the Senate, to serve at the pleasure of the respective minority leader who appointed them, and to be appointed upon the bill's effective date.⁸

Current member qualifications altered

The bill adds new requirements to some of the current positions on the Council, which requirements will only apply to members appointed to those positions upon the first vacancies by the members' respective predecessors, after the bill's effective date. The members and the new requirements are described as follows:

- The member of the public appointed by the Speaker of the House and the member of the public appointed by the President of the Senate must be active members of a bona fide consumer protection organization;
- The member who is a representative of the business community must be a member of a bona fide statewide trade association;

⁵ R.C. 4901.021(A)(3).

⁶ R.C. 4901.021(G).

⁷ R.C. 4901.021(A)(6) and (E)(1).

⁸ R.C. 4901.021(A)(9) and (10) and (E)(3).

- The member who is a senior citizen 65 years or older must be an officer of a bona fide statewide association for advocacy of older persons.⁹

Employment and business with public utilities prohibited

The bill prohibits any member appointed after the bill's effective date from currently being or having 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 PUCO regulation. The bill makes an exception to this prohibition for the member that is a representative of the regulated Ohio public utilities appointed by the Governor.

The bill further prohibits any member appointed after the bill's effective date from engaging in business with, holding stocks or bonds in, or having pecuniary interest in any entity or entity's parent, affiliate, or subsidiary, that is subject to PUCO regulation.¹⁰

Commissioner applicant interviews

The bill requires interviews of commissioner applicants to be conducted in public meetings subject to Ohio's Sunshine Law. Additionally, the bill prohibits interviews from being conducted during an executive session under the Sunshine Law.¹¹

Term limits

The bill limits members' service on the Council to no more than two years, but exempts the following members from this limit:

- The Chairperson of OCC's Governing Board;
- The President of the Accountancy Board;
- The President of the Ohio State Bar Association;
- The President of the Ohio Municipal League;
- The Director of Development or the Director's Department-employed designee.

Current law does not include any time limit for how long one may be a member of the Council.

The bill limits the time members of the Council may hold the office of chairperson and secretary to not more than two one-year terms in those positions. Under current law and regulations, the Council must select from among its members a chairperson and secretary at its first meeting each calendar year. The chairperson and secretary serve in this capacity until the

⁹ R.C. 4901.021(A)(7), (8), (12), (14), and (E)(2).

¹⁰ R.C. 4901.021(A)(11) and (B).

¹¹ R.C. 4901.021(C); R.C. 121.22, not in the bill.

first meeting of the Council held the following calendar year, unless removed from office or replaced as a member of the Council.¹²

Review of commissioner applicants

The bill makes changes to the Council's commissioner review process. First, the bill repeals the requirement that the Council choose commissioner candidates who have backgrounds primarily focused in energy and in transportation or communications technology. Under current law, the Council, to the extent possible, must continually attempt to ensure that the primary focus of the background of two commissioners is in energy, and that two commissioners have a background primarily focused in transportation or communications technology.

Additionally, the bill requires the Council, in reviewing and evaluating possible appointees to PUCO, to invite comments from, cooperate with, and request information from any person. Under current law, the Council may accept comments from, cooperate with, and request information from any person, but it is not required to do so.¹³

Online information about PUCO nomination process

The bill requires PUCO to make the following information publically available on its website:

- The operations of the PUCO Nominating Council including: biographical information for each Council member and for each commissioner applicant, meeting notices and minutes, and video recordings of Council meetings and applicant interviews;
- Opportunities for the public to comment, electronically or some other way, on commissioner applicants, the Nominating Council process, and any other subjects relating to the Nominating Council and the commissioner appointment process.¹⁴

HISTORY

Action	Date
Introduced	02-27-24

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¹² R.C. 4901.021(D) and (F); Ohio Administrative Code 4901:7-1-04(B), not in the bill.

¹³ R.C. 4901.021(H)(2) and (I).

¹⁴ R.C. 4901.022.