

a fine of not less than two hundred and fifty dollars, or by imprisonment for not more than sixty days, or both.

Inconsistent  
acts repealed.

Section 4. All acts and parts of acts inconsistent with this act are hereby repealed.

When effective.

Section 5. This act shall become effective immediately upon its final enactment.

APPROVED—The 31st day of March, A. D. 1937.

GEORGE H. EARLE

No. 43

AN ACT

Creating a commission to be known as the Pennsylvania Public Utility Commission; defining in part the powers and duties of such commission; abolishing The Public Service Commission of the Commonwealth of Pennsylvania, terminating the terms of the members thereof, and transferring to the Pennsylvania Public Utility Commission the records, employes, property, and equipment of The Public Service Commission of the Commonwealth of Pennsylvania; authorizing the Pennsylvania Public Utility Commission to appear in and complete all pending proceedings, legal or otherwise, instituted before, by or against The Public Service Commission of the Commonwealth of Pennsylvania; providing that all certificates of public convenience, contracts, orders, and rules and regulations of the latter commission shall remain effective until repealed, changed or modified by the Pennsylvania Public Utility Commission, and transferring and appropriating to the Pennsylvania Public Utility Commission any unexpended balance of any existing appropriation to The Public Service Commission of the Commonwealth of Pennsylvania.

Be it enacted, &c., As follows:

Pennsylvania  
Public Utility  
Commission  
created.

Section 1. (a) A commission to be known as the Pennsylvania Public Utility Commission is hereby created. The commission shall consist of five members who shall be appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate. The commissioners first appointed under this act, shall continue in office for terms of two, four, six, eight, and ten years, respectively, from the effective date of this act, and until their respective successors shall be duly appointed and shall be qualified, but their successors shall each be appointed for a term of ten years. Each commissioner, at the time of his appointment and qualification, shall be a resident of the Commonwealth of Pennsylvania, and shall have been a qualified elector therein for a period of at least one year next preceding his appointment, and shall also be not less than thirty years of age.

Terms of office.

Qualifications  
of members.

Governor to  
designate the  
chairman.

(b) A member designated by the Governor shall be the chairman of the commission during such member's term of office. When present, the chairman shall preside at all meetings, but in his absence a member, designated

by the chairman, shall preside and shall exercise, for the time being, all the powers of the chairman.

(c) Each of the commissioners shall receive an annual salary of ten thousand dollars (\$10,000), except the chairman, who shall receive an annual salary of ten thousand five hundred dollars (\$10,500).

Compensation.

(d) Three members of the commission shall constitute a quorum who, for all purposes, including the making of any order or the ratification of any act done or order made by one or more of the commissioners, must act unanimously.

Three members to constitute a quorum.

Section 2. When a vacancy shall occur in the office of any commissioner, a commissioner shall, in the manner aforesaid, be appointed for the residue of the term. If the Senate shall not be in session when any vacancy occurs, any appointment made by the Governor to fill the vacancy shall be subject to the approval of the Senate, when convened. No vacancy in the commission shall impair the right of a quorum of the commissioners to exercise all the rights and perform all the duties of the commission.

Vacancies.

Section 3. No person shall be appointed a member of the commission, or hold any place, position or office under it, who occupies any official relation to any public service company or public utility, or who holds any other appointive or elective office of the Commonwealth, or any political subdivision thereof. No commissioner, and no employe, appointee or official engaged in the service of, or in any manner connected with, the commission, shall hold any office or position, or be engaged in any business, employment or vocation, the duties of which are incompatible with the duties of his office as commissioner, or his employment in the service, or in connection with the work of the commission. No commissioner shall participate in any hearing or proceeding in which he has any direct or indirect pecuniary interest. Every commissioner, and every individual or official, employed or appointed to office under, in the service of, or in connection with, the work of the commission, is hereby forbidden, directly or indirectly, to solicit or request from, or to suggest or recommend to any public service company or public utility, or to any officer, attorney, agent or employe thereof, the appointment of any individual to any office, place or position in, or the employment of any individual in any capacity by, such public service company or public utility. If any person employed or appointed in the service of the commission shall violate any provision of this section, the commission shall forthwith remove him from the office or employment held by him.

Persons employed by public utilities, State, or subdivision ineligible to serve on the commission or to enter employment of the commission.

Governor, with consent of the Senate, may remove a commissioner

Section 4. The Governor, by and with the consent of two-thirds of all of the members of the Senate, may remove any commissioner for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him, and affording him an opportunity to be publicly heard in person or by counsel in his own defense upon not less than ten days' notice. If such commissioner shall be removed, the Governor shall file with the Department of State a complete statement of all charges made against such commissioner and his finding thereon, together with a complete record of the proceedings.

Member of commission to be a member of Water and Power Resources Board.

Section 5. A member of the Pennsylvania Public Utility Commission to be designated by the Governor shall be a member of the Water and Power Resources Board of this Commonwealth, in lieu of the member of The Public Service Commission of the Commonwealth of Pennsylvania holding such office upon the effective date of this act.

Commission may appoint a secretary.

Section 6. (a) The commission may appoint a secretary to hold office at its pleasure. Such secretary, if appointed, shall have such powers and shall perform such duties not contrary to law as the commission shall prescribe, and shall receive such compensation as the commission, with the approval of the Governor, shall determine. The commission shall have power and authority to designate, from time to time, one of its clerks to perform the duties of the secretary during his absence, and the clerk so designated shall possess, for the time so designated, the powers of the secretary of the commission.

May appoint other employes.

(b) The commission, with the approval of the Governor, shall have the power to appoint and fix the compensation of such officers, experts, engineers, statisticians, accountants, inspectors, clerks and employes as may be necessary for the proper conduct of the work of the commission: Provided, That the compensation of such persons shall be fixed in accordance with the standards of compensation fixed by the Executive Board of this Commonwealth.

Proviso.

Seal of the commission.

(c) The commission shall adopt and use an official seal, by which the commission shall authenticate its proceedings, and of which seal the courts shall take judicial notice. A copy of any paper or document on file with the commission authenticated by any such seal shall be evidence equally and in like manner as the original.

Investigations and hearings by the commission.

Section 7. Any investigation, inquiry or hearing which the commission has power to undertake or hold, may be undertaken or held by or before any one or more of the commissioners. All investigations, inquiries or hearings before or by any such commissioner or commissioners, shall be and be deemed to be the investigations, inquiries and hearings of the commission. Any

determination or order of a commissioner or commissioners upon any such investigation, inquiry or hearing, undertaken or held by him or them shall not become and be effective until approved and confirmed by at least a quorum of the commission. Upon such confirmation, such determination or order shall be the determination or order of the commission. In any investigation, inquiry or hearing, the commission may designate a special agent or examiner who shall have the power to administer oaths and examine witnesses and receive evidence in any locality which the commission, having regard to the public convenience and the proper discharge of its functions and duties, may designate. The testimony and evidence so taken or received shall have the same force and effect as if taken or received by the commission, or any one or more of the commissioners, as above provided.

Section 8. The commission may authorize the chairman—(1) To designate the time and place for the conducting of investigations, inquiries and hearings; (2) to assign cases to a commissioner or commissioners for hearing, investigation, inquiry, study or other similar purposes; (3) to assign cases to special agents or examiners for the taking and receiving of evidence; and (4) to direct and designate officers and employes of the commission to make investigations, inspections, inquiries, studies and other like assignments for report to the commission.

Powers of chairman in regard to hearings.

Section 9. The office of counsel to the Pennsylvania Public Utility Commission is hereby created, such counsel to be appointed by the Attorney General, with the approval of the Governor. The Attorney General may also from time to time, with the approval of the Governor, appoint such assistant counsel to the Pennsylvania Public Utility Commission as may be required for the proper conduct of its work. The compensation of the counsel and assistant counsel of the Pennsylvania Public Utility Commission shall be fixed by the commission, with the approval of the Governor. Such counsel or assistant counsel shall attend the hearings before the commission or a commissioner, or a special agent or examiner, and conduct the examination of witnesses when requested so to do by the commission or a commissioner, and shall represent the commission upon appeals and other hearings in the courts of common pleas and in the Superior and Supreme Courts, or other courts of the Commonwealth of Pennsylvania, or in any Federal court, and in actions instituted to recover penalties and to enforce regulations and orders of the commission. Such counsel and assistant counsel shall also assist the Attorney General in conducting all mandamus, injunction, and quo warranto proceedings at law or in equity,

Counsel.

instituted by him for the enforcement of the regulations and orders of the commission, and shall perform such other professional duties as may be required of them by the commission.

Powers and duties to be same as those of The Public Service Commission.

Section 10. The Pennsylvania Public Utility Commission shall exercise the powers and perform the duties exercised and performed prior to the effective date of this act by The Public Service Commission of the Commonwealth of Pennsylvania, and any powers and duties subsequently vested in and imposed upon the Pennsylvania Public Utility Commission by law.

Powers and duties of the new commission.

Section 11. The Pennsylvania Public Utility Commission shall have the power and its duties shall be—

(a) To administer and enforce the act, approved the twenty-sixth day of July, one thousand nine hundred thirteen (Pamphlet Laws, one thousand three hundred seventy-four), designated as “The Public Service Company Law,” as amended and supplemented, or any law hereafter enacted for the regulation of public utilities.

(b) To certify to the Sanitary Water Board any question of fact regarding the purity of water supplied to the public by any public service company or public utility over which it has jurisdiction, when any such question arises in any controversy or other proceeding before it, and upon the determination of such question by the Sanitary Water Board, to incorporate the findings of the board thereon in its decision upon the controversy or other proceeding out of which the question arose.

Section 12. Subject to the provisions of this act, the Pennsylvania Public Utility Commission shall have all the powers, and shall perform the duties generally vested in, and imposed upon, independent administrative boards and commissions by the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws, one hundred seventy-seven), designated as “The Administrative Code of 1929,” and its amendments, and shall be subject to all the provisions of such code which apply generally to independent administrative boards and commissions.

The Public Service Commission abolished.

Section 13. (a) The Public Service Commission of the Commonwealth of Pennsylvania is hereby abolished as of the effective date of this act, and the terms of the members of such commission now holding office shall expire and terminate upon that date.

Papers, records, etc., to be turned over to new commission.

(b) All books, papers, maps, tariffs, charts, plans and other records, and all equipment in the possession of The Public Service Commission of the Commonwealth of Pennsylvania upon the effective date of this act, or of any commissioner of said commission or any officer or employe of said commission, shall be delivered or turned over to the Pennsylvania Public Utility Commission.

(c) All employes of The Public Service Commission of the Commonwealth of Pennsylvania, on the effective date of this act, shall become employes of the Pennsylvania Public Utility Commission, and shall continue to perform their usual duties upon the same terms and conditions as theretofore until removed or appointed to other positions by the commission. Persons who, upon the effective date of this act, are employes of The Public Service Commission of the Commonwealth of Pennsylvania, shall retain all retirement rights that shall have accrued or would thereafter accrue to them, and their services shall be deemed to have been continuous as if The Public Service Commission had not been abolished.

Employes of old commission to continue to serve under new commission until removed.

(d) All petitions, hearings and other proceedings pending before The Public Service Commission of the Commonwealth of Pennsylvania, and all investigations begun by such commission, or any member or officer thereof, and not completed upon the effective date of this act, shall continue and remain in full force and effect as if The Public Service Commission of the Commonwealth of Pennsylvania had not been abolished, and may be completed before or by the Pennsylvania Public Utility Commission.

Petitions and hearings under old commission.

(e) All pending litigation or proceedings before any State or Federal court or regulatory body instituted by or against The Public Service Commission of the Commonwealth of Pennsylvania, or in which such commission is a party, upon the effective date of this act, shall not be deemed to be affected or terminated by this act; but the Pennsylvania Public Utility Commission shall have the right to apply to any such court or regulatory body to have its name substituted in such litigation or proceedings as a party in lieu of The Public Service Commission of the Commonwealth of Pennsylvania, and thereupon such pending litigation or proceedings may be prosecuted, defended or completed by the Pennsylvania Public Utility Commission.

Litigation pending.

(f) All certificates of public convenience, orders and rules and regulations made or issued by The Public Service Commission of the Commonwealth of Pennsylvania prior to, and in force and effect upon, the effective date of this act, shall remain in full force and effect until revoked or modified by the Pennsylvania Public Utility Commission.

Certificates of public convenience.

(g) All existing contracts and obligations of The Public Service Commission of the Commonwealth of Pennsylvania shall remain in full force and effect and shall be performed by the Pennsylvania Public Utility Commission.

Contracts.

(h) Whenever the term "The Public Service Commission of the Commonwealth of Pennsylvania" occurs in any law, contract or document, or whenever in any

law, contract or document reference is made to such commission, such term or reference shall be deemed to refer to and include the Pennsylvania Public Utility Commission created by this act so far as such law, contract or document pertains to matters which are within the jurisdiction of such commission.

Appropriation  
balances.

(i) The unexpended balance, existing on the effective date of this act in any appropriation whatsoever made to The Public Service Commission of the Commonwealth of Pennsylvania, is hereby transferred and appropriated to the Pennsylvania Public Utility Commission for the same purposes as expressed in any act making such an appropriation, and any such unexpended balance also is hereby appropriated to the Pennsylvania Public Utility Commission for the payment of any bills or encumbrances incurred by The Public Service Commission of the Commonwealth of Pennsylvania, prior to and remaining unpaid on the effective date of this act.

Constitutional  
provision.

Section 14. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Repeals.

Section 15. The following acts and parts of acts are hereby repealed as respectively indicated:

Sections one, two, three, four, five, six, seven, eight, eleven, twelve, thirteen, fourteen, fifteen, and eighteen of article four of the act, approved the twenty-sixth day of July, one thousand nine hundred thirteen (Pamphlet Laws, one thousand three hundred seventy-four), entitled "An act defining public service companies; and providing for their regulation by prescribing and defining their duties and liabilities; prescribing, defining, and limiting their powers, and regulating their incorporation, and, to a limited extent, regulating municipal corporations engaged or about to engage in the business of public service companies; creating and establishing a Public Service Commission for the regulation aforesaid, prescribing and defining the powers and duties of such commission and its officers, including the exclusive power to regulate the construction, alteration, relocation, or abolition of the crossings of railroad corporations, street railway corporations, or other public service companies, and of public highways by the tracks or other facilities of said companies; providing for the ascertainment by the commission of the expense and damages resulting from such construction, alteration, relocation, or abolition, and for the payment of such expense and damages, severally or proportionately, by the public service companies interested, the State, or municipal

corporation concerned, and giving persons whose property is thereby taken, injured, or destroyed, authority to sue the Commonwealth for damages in such cases; providing for the terms, salaries, and compensation of the members of the commission, its officers, counsel, and employes; prescribing and regulating the practice and procedure before such commission, and upon appeal and judicial review of its orders and determinations by the courts of common pleas; and giving the court of common pleas of Dauphin County exclusive jurisdiction of such appeals in certain cases, and of all injunctions, mandamus, or other appropriate proceedings to enforce the provisions of this act and the orders of the commission, and to restrain such orders, subject to an appeal to the Supreme Court; prescribing penalties, fines, and imprisonment for the violation of the provisions of this act and for the violation of the orders of said commission; making it the duty of The Public Service Commission to enforce the provisions of the act approved the nineteenth day of June, one thousand nine hundred and eleven, entitled 'An act to promote the safety of travelers and employes on railroads, by compelling common carriers by railroad to properly man their trains,' by amending section nine thereof; repealing the act approved the thirty-first day of May, one thousand nine hundred and seven, which provided for the appointment of the Pennsylvania State Railroad Commission; and sections one and two of the act, approved the fourth day of June, one thousand eight hundred and eighty-three entitled 'An act to enforce the provisions of the seventeenth article of the Constitution, relative to railroads and canals,' and an act, entitled 'To provide the maximum car service charges, including car storage charges, that railroad companies and corporations, or associations, may charge and collect on each car loading, and not unloaded within the free time for unloading cars, and fixing the free time that shall be allowed for unloading cars,' approved twenty-fourth day of May, Anno Domini one thousand nine hundred and seven; and the proviso of clause three and the provisos of clause seven of section thirty-four of the act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved the twenty-ninth day of April, one thousand eight hundred and seventy-four, and all other legislation inconsistent with or supplied by this act," absolutely.

Sections three hundred three, two thousand eight hundred one, two thousand eight hundred two, two thousand eight hundred three of the act, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws, one hundred seventy-seven), entitled "An act providing for and reorganizing the conduct



of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards, and commissions shall be determined," absolutely, and sections two hundred one, two hundred ten, four hundred thirty-one, and nine hundred six of said act, in so far as they apply to The Public Service Commission of the Commonwealth of Pennsylvania or the members or counsel thereof.

When effective.

Section 16. This act shall become effective on the first day of April, one thousand nine hundred thirty-seven, except that the Governor shall have power to appoint the members of the Pennsylvania Public Utility Commission as herein provided, at any time after the final enactment of this act, and to the extent necessary for such purpose this act shall become effective immediately upon its final enactment.

APPROVED—The 31st day of March, A. D. 1937.

GEORGE H. EARLE

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No. 44

AN ACT

To amend the act, approved the seventh day of June, one thousand nine hundred and one (Pamphlet Laws, four hundred ninety-three), entitled "An act providing for the examination, licensure, and registration of persons, firms, or corporations engaged or engaging in the business or work of plumbing or house drainage, and prescribing certain rules, regulations, and requirements for the construction of plumbing, house drainage, and cesspools in cities of the second class; and imposing fines, penalties, and forfeitures for violation thereof," as amended, extending the provisions of said act to certain boroughs, incorporated towns, and townships of the first class; extending the same to include building drainage; imposing certain powers and duties on the Department of Health; making further provisions for the administration of said act; extending the speci-