

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Public service commission-composition.

Sponsored by: Joint Minerals, Business & Economic
Development Interim Committee

A BILL

for

1 AN ACT relating to the public service commission; amending
2 the membership of the public service commission; making
3 conforming amendments; requiring appointments; and
4 providing for effective dates.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 37-2-101(a) through (e) and 37-2-102

9 are amended to read:

10

1 37-2-101. Creation; composition; appointment;
2 compensation; terms and oaths of members; removal; chairman
3 and deputy chairman; vacancies.
4

5 (a) There is created a commission separate from the
6 state board of equalization to which it has been joined
7 which is known as the "public service commission of
8 Wyoming". The commission shall consist of five (5) members,
9 three (3) members appointed by the governor, by and with
10 the advice and consent of the senate, one (1) member of the
11 house of representatives appointed by the speaker of the
12 house and one (1) member of the senate appointed by the
13 president of the senate. Not more than seventy-five percent
14 (75%) of the members of the commission shall at any time be
15 members of the same political party. Each member of the
16 commission appointed by the governor shall receive an
17 annual salary as provided by law, to be paid in equal
18 monthly installments in the same manner that other state
19 salaries are paid.

20
21 (b) Biennially the members shall elect from among
22 ~~their number~~ the members appointed by the governor a
23 chairman and a deputy chairman who shall serve in these

1 offices for a period of two (2) years. The chairman shall
2 receive an additional annual salary as provided by law
3 during his tenure as chairman to be paid in equal monthly
4 installments, in the same manner as other state salaries
5 are paid.

6

7 (c) The present elected chairman and two (2)
8 designated members now comprising the public service
9 commission, or their successors, and two (2) legislative
10 members appointed under subsection (a) of this section
11 comprise the public service commission for purposes of this
12 section.

13

14 (d) Upon the expiration of the term of any member
15 appointed by the governor he shall be reappointed or a
16 successor shall be appointed for a term of six (6) years or
17 except in case of a vacancy. Each member appointed by the
18 governor shall hold office until his successor is appointed
19 and qualified. The governor may remove any member he
20 appoints as provided in W.S. 9-1-202. Each legislative
21 member shall hold office until the expiration of the
22 legislator's term of office or until removed by the
23 legislative presiding officer who appointed him. Upon the

1 expiration of the term of any legislative member of the
2 commission, he shall be reappointed or a successor shall be
3 appointed as provided in subsection (a) of this section.

4
5 (e) In case of a vacancy of a member appointed by the
6 governor, it shall be filled by appointment by the governor
7 in accordance with W.S. 28-12-101. In case of a vacancy of
8 a legislative member appointed by the speaker of the house
9 or the president of the senate, it shall be filled by
10 appointment by the speaker of the house or the president of
11 the senate.

12
13 **37-2-102. Quorum; meetings; investigations and**
14 **hearings by single commissioner.**

15
16 A majority of the commission shall constitute a quorum to
17 transact business and for the performance of any duty or
18 for the exercise of any powers of the commission and may
19 hold meetings of the commission at any time or place within
20 the state. A majority of the commission shall consist of
21 ~~two (2) of the three (3)~~ three (3) of the five (5) members,
22 including the chairman and at least one (1) other member
23 appointed by the governor, that constitute the commission

1 in the normal course of business. Any investigation,
 2 inquiry or hearing which the commission has power to hold
 3 may be held by or before any commissioner, or an employee
 4 of the commission acting in the capacity of a hearing
 5 officer, when an order is entered in the records of the
 6 office of the commission to that effect, and such an
 7 investigation, inquiry or hearing when approved and
 8 confirmed by the commission shall be the investigation,
 9 inquiry or hearing of the commission, but no finding or
 10 order of the commission shall be effective without the
 11 concurrence of a majority of the commission.

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 14 *****

STAFF COMMENT

17 The Committee should note the constitutional issues
 18 associated with placing legislators on the Public Service
 19 Commission. See Wyo. Const. art. 2, § 1 (separation of
 20 powers); art. 3, § 8 (prohibiting senators and
 21 representatives from being appointed to any civil office
 22 under the state during their terms). W.S. 37-2-101(f)
 23 requires each member of the Commission to take the
 24 constitutional oath of office. A separate memorandum
 25 outlining these issues is included.

27 In addition, the Committee may wish to consider the
 28 following:

- 30 • The definition of "commissioner" is amended here to
 31 include only the members that the governor appoints to
 32 preclude legislators from holding commission hearings
 33 on their own. See W.S. 37-2-102.

- 1 • Current language requires no more than 75% of the
- 2 Commission to be from one political party. With a
- 3 five-member commission, no more than 3 of the 5 could
- 4 be from the same political party. See W.S. 37-2-
- 5 101(a).
- 6 • There is currently no provision in the bill that would
- 7 cover compensation for the legislative members.
- 8 • Per current statute (W.S. 37-2-111), the Attorney
- 9 General is the Commission's legal adviser. Inserting
- 10 legislative members onto the Commission would
- 11 implicate this section in terms of separation of
- 12 powers.
- 13 • The Committee may wish to consider the mechanics of
- 14 initially appointing legislators to the Commission
- 15 (see Section 2 below).

16
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 18 *****
 19

20 **Section 2.** The speaker of the house shall appoint one
 21 (1) representative and the president of the senate shall
 22 appoint one (1) senator to serve on the public service
 23 commission.

24
 25 **Section 3.** This act is effective immediately upon
 26 completion of all acts necessary for a bill to become law
 27 as provided by Article 4, Section 8 of the Wyoming
 28 Constitution.

29

30 (END)